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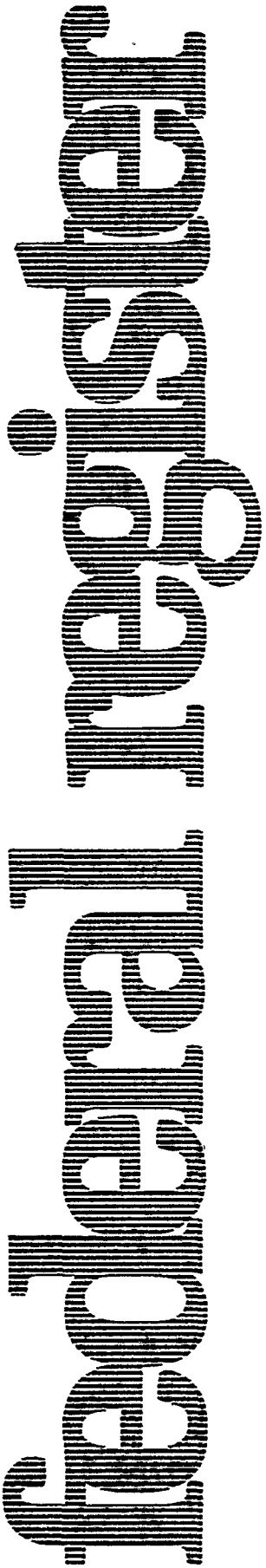

Monday
March 3, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., and Memphis, Tenn., see announcement in the Reader Aids Section at the end of this issue.

CONTINUED INSIDE

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Highlights

Contents

Federal Register
Vol. 45, No. 43
Monday, March 3, 1980

MEETINGS ANNOUNCED IN THIS ISSUE

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 45, No. 43
Monday, March 3, 1980

COST ACCOUNTING STANDARDS BOARD

4 CFR Part 403

[Interpretation No. 1]

Allocation of Home Office Expenses to Segments

AGENCY: Cost Accounting Standards Board.
ACTION: Final rule.

SUMMARY: The purpose of this interpretation is to clarify the intent of Cost Accounting Standard 403, Allocation of Home Office Expenses to Segments, with respect to the way State and local income taxes and franchise taxes are to be allocated from a home office of a contractor to its segments.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Bertold Bodenheimer, Project Director, Cost Accounting Standards Board, 441 G Street, NW, Room 4836, Washington, DC 20548 (202) 275-5508.

SUPPLEMENTARY INFORMATION: Cost Accounting Standard (CAS) 403 was published in the Federal Register on December 14, 1972. Among other subjects, the Standard deals with the method of allocating to segments the State income tax or franchise tax which is levied on the contractor. Information available to the Cost Accounting Standards Board indicates that most contractors have been allocating the taxes involved in a manner that comports with the Board's intent. Some contractors, however, seeking to validate different methods, have appealed decisions of contracting officers to the Armed Services Board of Contract Appeals (ASBCA). These appeals have resulted in two decisions (McDonnell Douglas Corp., ASBCA No. 19842; Lockheed Corp., Lockheed Missiles and Space Group, Inc., ASBCA No. 22451) which have demonstrated that the Cost Accounting Standards Board's intent in CAS 403 has been misunderstood by the ASBCA. The misunderstanding, if not resolved promptly, will frustrate the intent of the Cost Accounting Standards Board and cause substantial problems in the administration of contracts being performed by those contractors who are applying the Standard as intended.

Because of the serious and widespread nature of the problems which will result if no action is taken, the Cost Accounting Standards Board has concluded that it is imperative to act immediately to set forth in unequivocal terms the intent of Cost Accounting Standard 403 as it relates to the allocation of income taxes and franchise taxes.

Notwithstanding this interpretation, the Cost Accounting Standards Board has determined that a general review of several Standards including Cost Accounting Standard 403 is appropriate. The review of CAS 403 will focus on the income tax allocation provisions and is expected to proceed on a priority basis. As a part of that project the Cost Accounting Standards Board may take further action with respect to tax allocation practices. Pending such action, however, the following interpretation being promulgated today sets forth the intent of the Board with respect to tax allocations under Cost Accounting Standard 403.

Appendix—Interpretation No. 1

Questions have arisen as to the requirements of Part 403, Cost Accounting Standard, Allocation of Home Office Expenses to Segments, for the purpose of allocating State and local income taxes and franchise taxes based on income (hereinafter collectively referred to as income taxes) from a home office of an organization to its segments.

By means of an illustrative allocation base in Section 403.60, the Standard provides that income taxes are to be allocated by "any base or method which results in an allocation that equals or approximates a segment's proportionate share of the tax imposed by the jurisdiction in which the segment does business, as measured by the same factors used to determine taxable income for that jurisdiction." This provision contains two essential criteria for the allocation of income taxes from a home office to segments. First, the taxes of any particular jurisdiction are to be allocated only to those segments that do business in the taxing jurisdiction. Second, where there is more than one segment in a taxing jurisdiction, the taxes are to be allocated among those segments on the basis of "the same factors used to determine the taxable income for that jurisdiction." The questions that have arisen relate primarily to whether segment book income or loss is a "factor" for this purpose.

Most States tax a fraction of total organization income, rather than the book income of segments that do business within the State. The fraction is calculated pursuant to a formula prescribed by State statute. In these situations the book income or loss of individual segments is not a factor used to determine taxable income for that jurisdiction. Accordingly, in States that tax a fraction of total organization income, rather than the book income of segments within the State, such book income is irrelevant for tax allocation purposes. Therefore, segment book income is to be used as a factor in allocating income tax expense from a home office to segments only where this amount is expressly used by the taxing jurisdiction in computing the income tax.

(Sec. 103, 84 Stat. 796; 50 U.S.C. App. 2168)

Arthur Schoenhaut
Executive Secretary.

[FR Doc. 80-6627 Filed 2-29-80; 8:45 am]
BILLING CODE 1620-01-M

4 CFR Part 404

Capitalization of Tangible Assets

AGENCY: Cost Accounting Standards Board.
ACTION: Final rule.

SUMMARY: Part 404 includes a requirement that defense contractors have written policies for capitalization of tangible assets. Each such policy must include a minimum acquisition cost criterion, which has not been allowed to exceed $500. The Standard is being amended to raise the limit to $1,000. The purpose of the change is to permit contractors to adopt practices appropriate in today's economy.

EFFECTIVE DATE: December 20, 1980.

FOR FURTHER INFORMATION CONTACT: Paul R. McClenon, Project Director, Cost Accounting Standards Board, 441 G Street, NW, Room 4836, Washington, DC 20548 (202) 275-5537.

SUPPLEMENTARY INFORMATION: (1) *Background.* The amendment being promulgated today was, in one sense, anticipated at the time the Board promulgated Cost Accounting Standard 404. In its publication of February 27, 1973 the Board commented ". . . that specific limits, appropriate today, may need to be revised in the future. . . . Limitations can be revised promptly if developments warrant a change." This amendment is a specific recognition that a change is warranted.

The amendment now being promulgated is derived directly from the proposal which was published in the Federal Register for January 2, 1980 (45 FR 48) with an invitation for interested parties to submit comments. The Board sent copies of the proposal directly to organizations who were expected to be interested. The Board received 25 letters of comment on the January 2 proposal. The Board appreciates the participation by interested parties in its continuing effort to maintain the effectiveness of its Standards and regulations.

The remarks which follow summarize the major issues discussed in the comments on the January 2 proposal.

(2) *The specific change from $500 to $1,000.* CAS 404, as promulgated in 1973, contained a requirement for a written capitalization policy. The policy was required to include a minimum acquisition cost criterion, and that criterion was not allowed to exceed $500. The $500 limitation, selected as a ceiling to prevent unreasonable policies, encompassed the practices of 97% of the companies whose Disclosure Statements were filed with the Board.

The Board, recognizing that circumstances have changed significantly since the promulgation of Standard 404, authorized an inquiry into capitalization practices. With the cooperation of the National Association of Accountants, the Board mailed a questionnaire to about 200 NAA members who were able to describe the practices of large, medium, and small manufacturing firms which had not been influenced by the limitation of Standard 404. The Financial Executives Institute also mailed a similar questionnaire to about 900 of its members and asked them to furnish information directly to the Board. The responses received by the Board indicated that capitalization practices have indeed changed since the promulgation of Standard 404. Freely adopted policies now tend to include higher monetary criteria than were common in 1973.

The Board is persuaded that the change is related to changing economic circumstances, and that a change in the acquisition cost criterion is warranted. The January 2 proposal was to change from $500 to $1,000. Those who commented on the proposal were generally in favor of the specific change which had been proposed. The amendment being promulgated is unchanged from the January 2 proposal in this regard.

(3) *Use of index techniques for future changes.* The Board received several suggestions dealing with the idea that, in considering similar revisions in future years, the Board should use index techniques. The Board considered this general idea before making the January 2 proposal. The Board had reviewed the performance of several official measures which might have been used if an index technique were to be adopted. The increases from 1972 to 1979 were from about 60% to about 80%, suggesting that if $500 was the right limit at the time Standard 404 was developed, a limit of about $800 or $900 might be appropriate at the end of 1979. The questionnaire responses included a significant number of business units using $1,000.

The Board will continue to consider the appropriateness of the $1,000 limitation now being imposed. The impact of inflation, as recorded in several official indexes, will be among the factors considered. The Board is, however, not prepared to provide for any automatic amendment of the dollar limitation in Standard 404.

(4) *Other clarifying language.* It was suggested that, while the Standard is being amended anyway, the Board could reduce possible misunderstandings by modifying the language in two places.

The fundamental requirement of the Standard calls for a written capitalization policy which designates ". . . economic and physical characteristics for capitalization of tangible assets." The suggestion was made that this provision be modified by adding a clarifying phrase so that it would read ". . . economic and physical characteristics which must be met before an item is required to be capitalized." This suggestion was made in order to emphasize that the service life and unit cost are not the only characteristics to be considered in making a capitalization decision. The basic belief behind the suggestion is valid. The Board agrees that other criteria, such as ability to maintain physical identifiability, may be appropriately included in a policy, and items which are not capitalizable because of failure to meet one of the criteria specified in the policy should not be capitalized even if the estimated service life and monetary cost are in excess of those stated in the policy. The Board believes that the existing language of § 404.40(b) is clear in this regard, and no change is considered necessary.

The Standard now provides, at § 404.40(b)(4), that ". . . higher minimum dollar limitations . . ." may be designated for betterments and for original complements. Some accountants believe that the distinction between an expenditure for "repair" and one for "betterment or improvement" can best be made by considering the relationship between the expenditure and the original cost or the replacement value of the item being rebuilt or modernized. They believe it is reasonable to propose a capitalization policy which includes a percentage criterion which will, in turn, result in a different dollar criterion in each situtation. One commentator suggested that the Board should eliminate the word "dollar," so that the amended Standard would allow the designation of ". . . higher minimum limitations. . . ." The Board has no objection to policies which are stated in percentage terms over the range of typical application. The Board, however, feels that it is quite reasonable to provide a monetary limit above which any betterment will be capitalized even if its cost is a low percentage of some other asset's cost. The Board is therefore not making the suggested change, but it does take this opportunity to recognize that a capitalization policy for betterments can quite reasonably include a sliding scale or percentage technique provided that it also includes a specific monetary limit.

(5) *Effective date.* The January 2 proposal would have applied to assets acquired in contractors' cost accounting periods which begin on or after January 10, 1981. Several commentators urged an earlier effective date. The Board always tries to allow adequate time for contract administrators to prepare for changes. This amendment does not require any action; rather it provides the possibility for action. The Board has changed the effective date to December 20, 1980. This change will make the amendment effective much sooner for many contractors while still allowing sufficient time for administrative implementation of the amendment.

(6) *Comparing Costs and Benefits.* The Board's January 2 publication included an explicit request for advice with respect to probable costs of implementation as compared with

probable benefits. Only a few commentators dealt at all with this issue, and none of them in quantitative terms. All those who discussed this issue indicated that they expected benefits from the amendment, and that the benefits would outweigh any costs of implementation. No commentator objected to the proposal. The Board is persuaded that the probable benefits will exceed the probable costs of implementation.

PART 404—CAPITALIZATION OF TANGIBLE ASSETS

Title 4 CFR 404, Capitalization of Tangible Assets is amended as follows:

Section 404.40(b)(1) is revised as set forth below:

§ 404.40 Fundamental requirement.

* * * * *

(b)(1) The contractor's policy shall designate a minimum service life criterion, which shall not exceed 2 years, but which may be a shorter period. The policy shall also designate a minimum acquisition cost criterion which shall not exceed $1,000, but which may be a smaller amount.

* * * * *

§ 404.60 [Amended]

1. In § 404.60(a)(1) change "$1,000" to "$2,000" and "$500" to "$1,000."

2. In § 404.60(a)(1)(i) change "$600" to "$1,200."

3. In § 404.60(a)(1)(ii) change "$450" to "$900," twice.

4. In § 404.60(a)(2) revise last sentence to read "The Standard requires that, based upon contractor's policy, the asset be capitalized."

§ 404.80 [Amended]

Revise by adding a designation "(a)" to the present text of § 404.80, and by adding a new paragraph as follows:

* * * * *

(b) Sections 404.40(b)(1), 404.60(a)(1), and 404.60(a)(2), as amended, shall be applied to accrued expenditures for acquisition of tangible capital assets during the contractor's cost accounting periods which begin on or after December 20, 1980.

(84 Stat. 796, Sec. 103, 50 U.S.C. App. 2168)

Arthur Schoenhaut,

Executive Secretary.

[FR Doc. 80-6628 Filed 2-29-80; 8:45 am]

BILLING CODE 1620-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 307 and 327

Assessment Provisions; Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rules.

SUMMARY: FDIC has revised and simplified Part 307 of its regulations, which prescribes procedures to be followed by a bank whose insured status has been terminated other than by an action of the FDIC Board of Directors. Several provisions which have not been used since 1969 have been eliminated and certain provisions relating to assessments have been transferred to Part 327, which deals specifically with assessments. The remainder of Part 307 has been revised and simplified for clarification purposes and to reduce the reporting burden on insured banks whose deposits are assumed by other insured banks. The simplified rules include a revised, easier-to-understand form of notice to be sent to depositors when an insured bank's deposits are assumed by another insured bank. Also, the revised Part 307 provides for notice to depositors when an FDIC-insured mutual savings bank converts to a Federal charter. Further, it includes minor technical changes that conform its provisions to the requirements of the International Banking Act of 1978.

EFFECTIVE DATE: April 2, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, 550 17th Street N.W., Washington, D.C., 20429 (202) 389-4237.

SUPPLEMENTARY INFORMATION: On September 10, 1979, FDIC published a proposal which would amend Part 327 by incorporating in it the assessment provisions in Part 307 and completely revise Part 307. Part 307 prescribed the steps to be taken and the records to be furnished to FDIC by an insured nonmember bank that voluntarily terminates its insured status and goes into liquidation (formerly § 307.1), by a member bank of the Federal Reserve System that ceases to be a member bank and thereby terminates its insured status (formerly § 307.2), and by an insured bank whose deposits are assumed by another insured bank (formerly § 307.3).

With respect to the revision of Part 307, the proposal contained the following changes:

(1) Sections 307.1 and 307.2 were eliminated as being unnecessary because the provisions had not been used since 1969.

(2) The remainder of the part was restructured so it provides specific procedures for transactions involving the assumption of an insured bank's deposits by another insured bank and authorizes FDIC Regional Directors to prescribe the appropriate procedures for the protection of the depositors in all other cases involving the voluntary termination of the insured status of a bank.

(3) The notice that must be given to depositors when an insured bank's deposits are assumed by another insured bank was redrafted to make it easier for the depositor to understand.

(4) The notice requirement was revised to indicate that the notice would not be required in a purchase and assumption transaction involving only a part of a bank's deposits when the bank continues to operate as an insured bank.

(5) The separate submissions of information to FDIC by banks involved in an assumption transaction were reduced from three to one.

(6) The assessment provisions in the part were transferred to Part 327.

(7) A new provision was added to require that the notice to depositors be given when an FDIC-insured mutual savings bank converts, merges, or consolidates into an institution insured by the Federal Savings and Loan Insurance Corporation as provided by the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA").

Public comment on the proposal was invited through November 9, 1979. Only one written comment was received. It contained two suggestions. First, it recommended that the proposal be changed to allow the notice to the depositors to be given within 10 days in advance of an assumption transaction as well as within 30 days after the event. FDIC does not believe that such a modification is necessary. Although the proposed notice provision requires the notice to be given within 30 days after the assumption occurs, it does not prevent a bank from issuing another notice at an earlier date.

The comment also suggested that further effort should be devoted to the simplification of the language in the notice to the depositors. In particular, it recommended that certain legalistic terms (*e.g.*, "Please be advised", "deposit liabilities", and "assumed") and the reference to section 8(q) of the Federal Deposit Insurance Act be eliminated because they confuse the depositors who read the notice. The language has been reviewed again and an effort has been made to eliminate as

much of the legalese as possible in the final rule.

FDIC has also made several other changes in the final rule. It has changed § 307.2 of the proposal to indicate that the notice to depositors is required in all cases where the deposits of an insured bank are assumed by another insured bank, except for "phantom" bank mergers involving only one ongoing bank. The change makes clear that the notice requirement is applicable in a situation where the deposits of a number of insured banks are assumed by a newly chartered insured bank. The section has also been changed to eliminate the exemption to the notice requirement that was created in the proposal for a situation in which only a portion of a bank's deposits is assumed (*e.g.*, those of a branch office) and the bank continues to operate as an insured bank. FDIC has concluded that such exemption does not comport with the purpose of section 304 of FIRIRCA which mandates the notice to depositors in assumption transactions involving insured banks. The requirement was intended to insure that depositors would have an opportunity to make adjustments to maintain their deposit insurance protection in the event they had deposits in both the assuming bank and the bank from which the deposits are assumed. If the notice were not required in situations where only a portion of an insured bank's deposits was assumed by another insured bank, the depositors of the bank whose deposits were assumed would not be assured of a reasonable opportunity to protect their deposits.

The proposal was also modified to incorporate minor technical changes that conform the provisions to the requirements of the International Banking Act of 1978.

Except for the changes noted above and minor editorial changes, the provisions in the final rules adopted by FDIC are the same as those in the proposed revision of Part 307 and amendment of Part 327. Since the proposal was made primarily for simplification purposes and since none of the changes will have a significant impact on the competitive status or the recordkeeping and reporting requirements of FDIC-insured banks, no cost/benefit analysis was undertaken with respect to the changes. Further since the provisions represent the minimum requirements for all banks, it was concluded that they were not amenable to a flexible regulatory approach that would distinguish between banks on the basis of size.

Under its authority in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), the FDIC Board of Directors hereby revises Part 307 and amends Part 327 of the Code of Federal Regulations (12 CFR Parts 307, 327) as set forth below.

1. 12 CFR Part 307 is revised to read:

PART 307 TERMINATION OF INSURED STATUS

Sec.

Authority: Sec. 2, Pub. L. 797, 64 Stat. 879, 880 as amended by secs. 202, 204, Pub. L. 89-695, 80 Stat. 1046, 1054, and sec. 6(c)(14), Pub. L. 95-369, 92 Stat. 618 (12 U.S.C. 1818(a), 1818(o)); Sec. 304, Pub. L. 95-630, 92 Stat. 3676 (12 U.S.C. 1818(q)); Sec. 9, Pub. L. 797, 64 Stat. 881, (12 U.S.C. 1819).

§ 307.1 Purpose and scope.

This part describes the procedures to be followed by a bank whose insured status under the Federal Deposit Insurance Act has been terminated other than by an action of the FDIC Board of Directors. Termination of a bank's insured status by action of the FDIC Board of Directors is covered by Part 308 and in sections 8(a) and 8(p) of the Federal Deposit Insurance Act.

§ 307.2 When deposit liabilities are assumed by another insured bank.

(a) Whenever the deposit liabilities of an insured bank or insured branch of a foreign bank are assumed by another insured bank (whether by merger, consolidation, or other statutory assumption, or by contract), the assuming or resulting bank shall give notice of the assumption to each of the depositors of record of the bank whose deposits are assumed. The notice shall be given within 30 days after assumption takes effect and shall be substantially in the form provided in Appendix A to this part. The assuming or resulting bank shall mail the notice to each of the depositors at the depositor's last address of record on the books of the bank or insured branch of a foreign bank whose deposits are assumed and shall publish the notice in at least two issues of a local newspaper of general circulation. However, no notice need be given for a "phantom" bank merger which involves only one existing operating bank. The term "phantom" bank is defined in footnote 2a of § 303.11(a)(9).

(b) Within 30 days after the assumption takes effect, the assuming or resulting bank shall certify to the FDIC (1) that it has agreed to assume the deposit liabilities of the bank whose deposits were assumed; and (2) that notice was given as required in paragraph (a) of this section. The certification shall state the date the assumption took effect, the dates the notices were mailed and published, and the name of the newspaper in which it was published, and shall include a copy of the notice as mailed. This certification shall be considered satisfactory evidence of the assumption.

§ 307.3 When deposit liabilities are not assumed by another insured bank or when a State-chartered FDIC-insured mutual savings bank becomes an institution insured by the FSLIC.

Any insured bank or insured branch of a foreign bank whose insured status terminates, but whose deposit liabilities are not assumed by another insured bank, or any State-chartered FDIC-insured mutual savings bank that converts, merges, or consolidates into an institution insured by the Federal Savings and Loan Insurance Corporation, shall give notice to each of its depositors of the date of the termination of its insured status under the Federal Deposit Insurance Act. The notice to depositors shall be given in a form, in a manner, and at a time approved by the appropriate FDIC Regional Director. The FDIC may require the bank to take other steps that it considers necessary for the protection of depositors.

Appendix A (Notice to Depositors of Assumption of Deposit Liabilities by Another Insured Bank)

(Date)————

Notice to Depositors of the (Name of assumed bank or branch)————:

Dear Depositor: The deposit liabilities shown on the books of the (Name of assumed bank or branch)———— (City and town)———— (State)————as of the close (opening) of business on ————, 19— have been transferred to the (Name of assuming bank)————which is now legally responsible for the payment of the deposits.

Although the insured status of (Name of assumed bank or branch of foreign bank)————will end when the Federal Deposit Insurance Corporation (FDIC) has received satisfactory evidence of the transfer, the (Name of assuming bank)———— is an insured bank and your deposits will continue to be insured by FDIC in the manner and to the extent provided in

the Federal Deposit Insurance Act. Your deposits that were maintained in the (Name of assumed bank or branch)————————will be separately insured from any deposits you may have in the (Name of assuming bank)————————for a period of six months after the transfer date stated above or, in the case of a time deposit which matures after that period, until the earliest maturity date after the six-month period. At that time, your deposits from the (Name of assumed bank or branch)————————will be combined with any deposits you may have in the (Name of assuming bank)————————for purposes of determining deposit insurance.*
(Name of assuming bank)————————
(Address)————————

PART 327—ASSESSMENTS

2. 12 CFR Part 327 is amended by revising § 327.3 to read:

§ 327.3 Payment of assessments by banks whose insured status has terminated.

(a) *Liability for assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank, the assumed deposits, for assessment purposes, shall be deposit liabilities of the assuming bank and shall cease to be deposit liabilities of the bank whose deposits are assumed.

(b) *Payment of assessments by bank whose deposits are assumed.* When the deposit liabilities of an insured bank are assumed by another insured bank, the insured bank whose deposits are assumed shall file a final certified statement, as provided in § 304.3 (u) and (v), and shall pay to the Corporation the normal assessment thereon. If the deposits of the terminating bank are assumed by a newly insured bank, the terminating bank is not required to file certified statements or pay any assessment upon the deposits so assumed after the semiannual period in which the assumption occurs.

(c) *Payment of assessments by assuming bank on assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank and the assuming bank agrees to file the certified statement which the terminating bank is required to file, the filing of the certified statement and the payment of the assessment on the deposits by the assuming bank shall satisfy the terminating bank's obligations in this regard if (1) the requisite notice of assumption, as provided in Part 307 of this chapter, is given to the depositors of the terminating bank, and (2) the certified statement is filed separately from that required to be filed by the assuming bank.

(d) *Resumption of insured status before insurance of deposits ceases.* If a bank whose insured status has been terminated under section 8(a) of the Federal Deposit Insurance Act is permitted by the Corporation to continue or resume its status as an insured bank before the insurance of its deposits has ceased, the bank will be deemed, for assessment purposes, to continue as an insured bank and must thereafter furnish certified statements and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.7 of this chapter.

(e) *Payment of assessments by bank whose deposits are not assumed.* (1) When the deposit liabilities of an insured bank are not assumed by another insured bank, the terminating bank shall continue to file certified statements and pay assessments for the period its deposits are insured, as provided by the Federal Deposit Insurance Act. It shall not be required to file further certified statements or to pay further assessments after the bank has paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the semiannual period in which its deposit liabilities are paid in full, and after it, under applicable law, has ceased to have authority to transact a banking business and to have existence, except for the purpose of, and to the extent permitted by law for, winding up its affairs.

(2) When the deposit liabilities of the bank have been paid in full, the bank shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment. When the bank has unclaimed deposits, the certification shall further state the amount of the unclaimed deposits and the disposition made of the funds to be held to meet the claims. For assessment purposes, the following will be considered as payment of the unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay the unclaimed and unpaid deposits to the public official authorized by law to receive the same; or

(ii) If no law provides for the transfer of funds to a public official, the transfer of cash funds or compensatory assets to an insured bank in an amount sufficient to pay the unclaimed and unpaid deposits in consideration for the assumption of the deposit obligations by the insured bank. The terminating bank shall give sufficient advance notice of the intended transfer to the owners of the unclaimed deposits to enable the depositors to obtain their deposits prior to the transfer. The notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise the depositors of the liquidation of the bank, request them to call for and accept payment of their deposits, and state the disposition to be made of their deposits if they fail to promptly claim the deposits. If the unclaimed and unpaid deposits are disposed of as provided in paragraph (e)(2)(i) of this section, a certified copy of the public official's receipt issued for the funds shall be furnished to the Corporation. If the unclaimed and unpaid deposits are disposed of as provided in paragraph (e)(2)(ii) of this section, an affidavit of the publication and of the mailing of the notice to the depositors, together with a copy of the notice, and a certified copy of the contract of assumption shall be furnished to the Corporation.

(3) The terminating bank shall advise the Corporation of the date on which the authority or right of the bank to do a banking business has terminated and the method whereby the termination has been effected (*i.e.*, whether the termination has been effected by the surrender of the charter, by the cancellation of its authority or license to do a banking business by the supervisory authority, or otherwise).

(Sec. 9, Pub. L. 797, 64 Stat. 881 (12 U.S.C. 1819))

By order of the Board of Directors February 25, 1980.

Federal Depost Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 80-6534 Filed 2-29-80; 8:45 am]
BILLING CODE 6714-01-M

* When only a portion of a bank's deposits is assumed, appropriate adjustments should be made to the content of the notice. The assuming bank may include in this notice any additional information it desires.

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12 CFR Part 329

Interest on Deposits; Obligations Other Than Deposits—Exemption for Borrowing From Credit Unions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: With certain enumerated exceptions, the provisions of FDIC's regulations governing the advertising and payment of interest on deposits apply to obligations other than deposits that are issued or undertaken by insured

nonmember banks for the purpose of obtaining funds to be used in the banking business. One of the exceptions is for interbank borrowings. The term "bank" is defined to include a wide variety of financial institutions but does not now include credit unions. To conform the scope of the exemption to a similar exemption for member banks in Federal Reserve Regulation Q, the Board of Directors of the Federal Deposit Insurance Corporation ("Board," "FDIC") is issuing a significant amendment to its regulations. This amendment expands the definition of the term "bank" to include credit unions.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney (202-389-4324) or Fredric H. Karr, Attorney (202-389-4237), Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTAL INFORMATION: Section 329.10 of the FDIC regulations (12 CFR 329.10) concerns itself with obligations other than deposits. Subsection (b)(1)(i) to section 329.10 (12 CFR 329.10(b)(1)(i)) states that the provisions of Part 329 of the FDIC regulations do not apply to any obligation, other than a deposit obligation of an insured nonmember bank, that "(i)s issued to (or undertaken with respect to) and held for the account of: (i) a bank[17]. . . ."

For purposes of section 329.10, note 17 defines the term "bank." At present, this definition does not include credit unions.

In October 1979, the Board of Governors of the Federal Reserve System issued a final interpretation of section 217.137 of its Regulation Q (12 CFR 217.137) relating to interest on deposits (44 FR 60076).

The Board of Governors determined that credit unions should be included within the category of institutions from which Federal Reserve member banks may borrow without regard to interest rate ceilings or other restrictions on deposits. Accordingly, the term "bank" was expanded to include credit unions, both for purposes of the Federal Reserve System's Regulation Q and Regulation D (12 CFR Part 204, "Reserves of Member Banks").

Note 17 to section 329.10(b)(1)(i) of the FDIC regulations defines the term "bank" in terms substantially identical to those found in section 217.137 of the Federal Reserve System's interpretations. Because of the above-mentioned Federal Reserve action, FDIC's Board of Directors considers it desirable to make conforming amendments to FDIC's regulations as set forth below.

The amendments will enhance the competitive position of insured nonmember banks vis-a-vis member banks by enabling insured nonmember banks to borrow from credit unions on the same basis as member banks, thus treating such borrowings as exempt interbank transactions under the provisions of § 329.10(b)(1) of FDIC's regulations.

Because the regulation is designed to conform FDIC regulations to other agency regulations, it was not considered necessary to examine alternative approaches.

No cost-benefit analysis was undertaken in connection with this amendment because the Board has determined that there will be no significant direct costs to insured nonmember banks.

The Board has also determined that the amendment will not affect the recordkeeping and reporting requirements of the banks.

The Board has further determined that because the amendment relaxes restrictions imposed by prior regulations, and because it is in the interest of insured nonmember banks to make the amendment effective without delay, no purpose would be served by conventional rulemaking procedures prescribed by sections 553(b) and 553(d) of the United States Code (5 U.S.C. 553(b) and 553(d)), including notice, public participation, and deferred effective date.

Section 329.10(b)(1)(i) is amended by revising the first sentence of footnote [17] thereto as follows:

§ 329.10 Obligations other than deposits.

* * * * *

(b) *Exceptions.* * * *

(1) * * * (i) * * *[17]

(Secs. 9 and 18, Pub. L. 81-797, 64 Stat. 881, 891, as amended (12 U.S.C. 1819 and 1828))

By order of the Board of Directors.

Dated: February 25, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-6525 Filed 2-29-80; 8:45 am]

BILLING CODE 6714-01-M

[17] The term "bank" includes a member bank, a nonmember commercial bank, a savings bank (mutual or stock), a building or savings and loan association or cooperative bank, the Export-Import Bank of the United States, a foreign bank, or a credit union. * * *

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-GL-15]

Alteration of Transition Area; Belvidere, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Belvidere, Illinois to accommodate a revised Very High Frequency Omnidirectional Range (VOR) instrument approach procedure into the Belvidere Airport, Belvidere, Illinois, revised as a result of the proposed relocation of the Rockford VOR facility.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions. The revision of this instrument procedure involves a minor change to the final approach radial (from 075 degrees to 072 degrees). The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one-half mile beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 61973 of the Federal Register dated October 29, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at

Belvidere, Illinois. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

Belvidere, Ill.

That airspace extending upward from seven hundred (700) feet above the surface within a five (5) statute mile radius of the Belvidere Airport (latitude 42°19'25"N, longitude 88°50'25"W) Belvidere, Illinois and within two (2) statute miles either side of the 252° bearing from the airport, extending from the five (5) mile radius area to six and one-half (6.5) statute miles southwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 1161))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-15, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 13, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6309 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-73]

Alteration of VOR Federal Airway; Montgomery, Ala., and Vulcan, Ala.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters VOR Federal Airway V-7 between Montgomery, Ala., and Vulcan, Ala. The airway realignment improves traffic flow between Montgomery and Birmingham, Ala., terminal areas and reduces controller workload.

EFFECTIVE DATE: May 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On December 17, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter VOR Federal Airway V-7 between Montgomery, Ala., and Vulcan, Ala., by realigning V-7 from Montgomery direct to Vulcan. Presently V-7 is aligned from Montgomery to Vulcan via a west dogleg. This dogleg segment is also codesignated as V-115 (44 FR 73110). The realignment will designate an airway in an area where aircraft are normally vectored thereby permitting more expeditious flow of traffic between Montgomery and Birmingham terminal areas. No comments were received objecting to the proposal. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the Federal Register on January 2, 1980 (45 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) realigns V-7 from Montgomery, Ala., direct to Vulcan, Ala. This alteration designates an airway in an area where aircraft are normally vectored thereby reducing controller workload. Also, traffic flow will be improved.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, May 15, 1980, as follows:

Under V-7 "Montgomery; INT Montgomery 323° and Vulcan, Ala., 177° radials; Vulcan;" is deleted and "Montgomery; Vulcan, Ala.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on February 22, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-6308 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-GL-61]

Designation of Transition Area; Rushford, Minn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near Rushford, Minnesota to accommodate a new Very High Frequency Omnidirectional Range (VOR-A) instrument approach into Rushford Municipal Airport, Rushford, Minnesota established on the basis of a request from the Rushford Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps

and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 73110 of the Federal Register dated December 17, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Rushford, Minnesota. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 20, 1980, as follows:

In Section 71.181 (45 FR 445) the following transition area is added:

Rushford, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Rushford Municipal Airport, Rushford, Minnesota (latitude 43°49'15" N, longitude 91°49'45" W) and 2.5 miles each side of the 242° true bearing from the Nodine, MN VORTAC (latitude 43°54'45" N, longitude 91°28'03" W) extending from the 6.5-mile radius area out to 7.0 miles.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-61, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 13, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6310 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[T.D. 7681; LR-116-79]

Certain Tax-Free Sales by Manufacturers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the availability of a refund or credit on certain articles described in section 4221(a)(1) of the Code. These regulations provide necessary guidance to the public for compliance with the law, and affect both original and subsequent manufacturers of these articles.

DATE: The regulations are effective for sales made after December 31, 1958.

FOR FURTHER INFORMATION CONTACT: Kyllikki Kusma of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention CC:LR:T:LR-116-79, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The regulations at § 48.4221-2(c)(1) currently make a cross reference to section 6416(b)(3)(A). This is an erroneous cross reference which has led to confusion among manufacturers as to the availability of a refund or credit on certain articles described in section 4221(a)(1). These regulations delete the incorrect cross reference and clarify that a refund or credit is available to only one manufacturer with respect to taxes paid on an article. Because this regulation is non-substantive and essentially procedural, it is found unnecessary to issue this Treasury decision with notice and public procedure. For the same reasons, this regulation is not a significant regulation under paragraph 8 of the Treasury Directive appearing in the Federal Register for November 8, 1978 (43 FR 52120).

Drafting Information

The principal author of this regulation was Kyllikki Kusma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 48 is amended as follows:

Paragraph. Section 48.4221-2(c)(1) is revised to read as follows:

§ 48.4221-2 Tax-free sale of articles to be used for, or resold for, further manufacture.

* * * * *

(c) *Proof of resale for further manufacture*—(1) *Cessation of exemption.* The exemption provided in section 4221(a)(1) and described in paragraph (a) of this section in respect of an article sold by the manufacturer to a purchaser for resale to a second purchaser for use by the second purchaser in further manufacture shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of such article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless, within such 6-month period, the manufacturer receives proof, in the form prescribed by paragraph (c) (2) of this section, that the article was actually resold by the purchaser to a second purchaser for such use. If, on the first day following the close of the 6-month period, such proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold. If the manufacturer later obtains such proof, it may file a claim for refund or credit of this tax. The payment of this tax by the manufacturer is not considered an overpayment by the subsequent manufacturer or producer for which the subsequent manufacturer or producer is entitled to a credit or refund under section 6416(b)(3). See section 4221(d)(6) and paragraph (b) of this section for the circumstances under which an article is considered to have been sold for use in further manufacture.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68 A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: February 20, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-6611 Filed 2-29-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 875-80]

Attorney General Order on the Establishment of the Office of Intelligence Policy and Review

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order establishes the Office of Intelligence Policy and Review in the Department of Justice. In recent years several organizational units within the Department have become increasingly active in legal and policy matters related to the intelligence community. This order is intended to consolidate several Departmental intelligence functions within the new Office of Intelligence Policy and Review. The purposes of this consolidation are to facilitate the development of Departmental policy on intelligence matters and to enhance the Department's capability to provide legal advice to the Attorney General, the several organizational units of the Department, and the executive agencies, on the development, interpretation, and application of statutes, regulations and procedures in regard to intelligence activities of the United States.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: A. R. Cinquegrana, Deputy Counsel for Intelligence Policy, Washington, D.C. 20530 (202-633-3712).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, chapter 1 of title 28, Code of Federal Regulations, is hereby amended to add:

Subpart F-1—Office of Intelligence Policy and Review

§ 0.33a Organization.

The Office of Intelligence Policy and Review shall be headed by a Counsel for Intelligence Policy, appointed by the Attorney General. The Counsel shall be subject to the general supervision and direction of the Attorney General, and, whenever appropriate, the direction of the Deputy Attorney General.

§ 0.33b Functions.

The Counsel for Intelligence Policy shall:

(a) Advise and assist the Attorney General in carrying out his responsibilities under Executive Order 12036, "United States Intelligence Activities;"

(b) Serve as the Department representative to the National Foreign Intelligence Board;

(c) Oversee the development, coordination and implementation of Department policy with regard to intelligence, counterintelligence and national security matters;

(d) Participate in the development, implementation and review of United States intelligence policies, including procedures for the conduct of intelligence and counterintelligence activities;

(e) Evaluate Departmental activities and existing and proposed domestic and foreign intelligence and counterintelligence activities to determine their consistency with United States intelligence policies and law;

(f) Formulate policy alternatives and recommend action by the Department and other executive agencies in achieving lawful United States intelligence and counterintelligence objectives;

(g) Analyze and interpret current statutes, Executive orders, guidelines, and other directives pertaining to domestic security, foreign intelligence and counterintelligence activities; and

(h) Review and comment upon proposed statutes, guidelines, and other directives with regard to intelligence activities; and, in conjunction with the Office of Legal Counsel, review and comment upon the form and legality of proposed Executive Orders that touch upon matters related to the function of this Office;

(i) Supervise the preparation of certifications and applications for orders under the Foreign Intelligence Surveillance Act and the representation of the United States before the United States Foreign Intelligence Surveillance Court;

(j) Recommend action by the Department of Justice with regard to applications for foreign intelligence and counterintelligence electronic surveillances, as well as for other investigative activities by executive branch agencies;

(k) Monitor intelligence and counterintelligence activities by executive branch agencies to insure conformity with Department objectives;

(l) Prepare periodic and special intelligence reports describing and evaluating domestic and foreign intelligence and counterintelligence activities and assessing trends or changes in these activities;

(m) Provide a quality control review for all outgoing intelligence and counterintelligence reports;

(n) Supervise the preparation of the Office's submission for the annual budget; and

(o) Perform other duties pertaining to intelligence activities as may be assigned by the Attorney General or Deputy Attorney General.

§ 0.33c Relationship to Other Departmental Units.

(a) Internal security functions at § 0.61 shall continue to be the responsibility of the Assistant Attorney General in charge of the Criminal Division.

(b) The Assistant Attorney General for Administration shall be responsible for providing advice relating to basic Department policy for security and shall direct all Department security programs assigned at § 0.75(p).

(c) Responsibility for conducting criminal investigations shall continue to rest with the head of the Departmental investigative or prosecutive unit having jurisdiction over the subject matter.

(d) Responsibility for conducting intelligence activities shall continue to rest with the head of the Departmental unit having jurisdiction over the subject matter.

(e) In rendering legal opinions, the Counsel for Intelligence Policy shall consult with the Office of Legal Counsel whenever the Counsel determines (i) that a question raises significant implications for activities of the government other than intelligence activities, or (ii) that other facts or circumstances make such consultation appropriate.

Dated: February 20, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-6634 Filed 2-29-80; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1423-4]

40 CFR Part 52

Approval of Revision of the District of Columbia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision of the District of Columbia's Implementation Plan which would provide more realistic visible emission standards, provide more specific test procedures for testing stationary sources, and provide more appropriate criminal penalties. The revision is applicable to Sections 8-2:702 (Definition Changes), 8-2:708 (Performance Testing), 8-2:713 (Visible Emissions), 8-2:718 (Emissions Testing), 8-2:726 (Penalties) of the District's Air Quality Control Regulations (Regulation No. 72-12); and Section 6-812(a)(5) (Penalties) of the District of Columbia Air Quality Control Act.

EFFECTIVE DATE: March 3, 1980.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Patricia Sheridan.

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue SW., Washington, D.C. 20032, Attn: John V. Brink.

Public Information Reference Unit, Room 2922–EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joanne T. McKernan, Environmental Protection Specialist (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number: (215) 597–8182.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 1978, the District of Columbia submitted to the Regional Administrator, EPA, Region III, amendments to the District's Air Quality Control Regulations and requested that they be reviewed and processed as a revision of the District of Columbia's Implementation Plan for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The amendments (submitted as Act 2–280, now D.C. Law 2–133) consist of changes to Sections 8–2:702 (Definition Changes), 8–2:708 (Performance Testing), 8–2:713 (Visible Emissions), 8–2:718 (Emissions Testing), 8–2:726 (Penalties) of the District's Air Quality Control Regulations (Regulation No. 72–12); and Section 6–812(a)(5) (Penalties) of the District of Columbia Air Quality Control Act. The revision amends these regulations and the Air Quality Control Act by providing more realistic visible emission standards, by providing more specific emissions testing procedures for stationary sources, and by providing more appropriate criminal penalties. A public hearing was held on May 23, 1978, in accordance with 40 C.F.R. Section 51.4, to consider amending the regulations as a revision of the District's Implementation Plan.

The regulations, as originally approved by District of Columbia City Council on July 7, 1972, contained definitions which required clarification. The plan revision (Section 8–2:702) will clarify these definitions.

The originally approved regulations require clarification of the operating conditions when determining compliance with the particulate emission standard. This plan revision (Section 8–2:708) adds provisions describing the required operating conditions, thereby facilitating enforcement of the particulate standard.

Another Section (8–2:718) of the plan revision amends the District's requirements covering sampling, tests, and procedures. It allows the District more flexibility in requiring the performance of compliance tests and in requiring the submission of test reports. There are specific test methods prescribed and also a standard for the measurement of visible emissions.

The District's regulation dealing with the assessment of criminal penalties (Section 8–2:726) is revised to allow for more appropriate criminal penalties.

The final plan revision contains changes to Section 8–2:713 (Visible Emissions) of the District's regulations. A history of the legislative changes and other implementation plan revisions was published in the Federal Register on December 4, 1978, 43 Fed. Reg. 56662. In that final rule, the original regulation was amended to allow for no visible emissions except during startup, cleaning, soot blowing, adjustment of the combustion controls of the boilers and/or unavoidable malfunction of equipment. During those periods, discharges of 40 percent opacity were permitted for 2 minutes in any 60-minute period and for an aggregate of 12 minutes in any 24-hour period. This applied to all boilers regardless of size.

The December 27, 1978 amendment makes no changes in the visible emissions standard as it applies to fuel-burning equipment placed in operation after January 1, 1977. The amended Section 8–2:713 sets new visible emissions limitations for old (pre-January 1, 1977) fuel-burning equipment. It allows emissions of 10 percent opacity at all times, as opposed to the previous limit of "no visible emissions." Additional emissions are permitted during startup and shutdown of boilers. This amendment also places the responsibility for good operating practices on the owners and operators of fuel-burning equipment and other stationary sources, as well as the responsibility for showing that any violations of the visible emissions limitations were caused by unavoidable malfunctions. Further, the amendment requires that operators and maintenance personnel are adequately trained and supervised so as to minimize the production of emissions during the operation of the sources and equipment; it continues the current exemption for visible emissions resulting from uncombined water and exemptions of visible emissions from interior fireplaces. It inserts an exemption for the purging of oil burners.

Finally, the amendment provides a lower penalty for violations resulting from simple negligence than those for willful violations. The burden of proving that any violations result from simple negligence is placed upon the discharger.

Key arguments presented by the District in support of its revision are as follows:

1. The revision provides a more realistic and enforceable visible emission standard for large boilers.
2. The revision does not change the mass emission standards for particulate matter or for any other criteria pollutant.
3. Nothing in the revision affects the District's ability to meet its ambient air quality standard.

In the Part D proposed rulemaking of June 26, 1979, 44 Fed. Reg. 37236, the Administrator included the December 27, 1978 amendment as a proposed revision to the District's Implementation Plan. That part of the revision was referred to as Act 2–280 in the June 26, 1979 publication. A 30-day public comment period was provided, during which time no public comments were received on Act 2–280 as a proposed SIP revision.

II. Approvability of the Proposed Revision

A request for a revision to an Implementation Plan must be approved by the Administrator if the revision meets the requirements of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. The basic substantive requirement for approval of this revision is that it will not interefere with attainment or maintenance of the National Ambient Air Quality Standards.

The District of Columbia did not submit a separate air quality demonstration for the visible emission regulation change because the District relied on the demonstration in the nonattainment plan which was based on all sources meeting the mass emission limitation. However, EPA performed its own screening analysis on area source emissions which shows that the particulate emissions presented in the demonstration are not significantly changed by the visible emissions revision; furthermore, D.C. provided assurances that for point sources, the mass emission rates will not change due to the change in the visible emission regulation. As a result of these analyses, the Agency believes that the change in the visible emission regulation will not significantly impact ambient air quality. It also shows that the demonstration in the proposed nonattainment SIP for particulate matter is not jeopardized by the amendment of the visible emissions regulation.

Consequently, the Agency has concluded that the amendments to the District's regulations submitted on

December 27, 1978 do not interfere with the attainment or maintenance of the National Ambient Air Quality Standard for particulate matter. Therefore, the Administrator approves, effective immediately, the amendments to Sections 8–2:702, 8–2:708, 8–2:713, 8–2:718, 8–2:726 of the District's air quality control regulations, and to Section 6–812(a)(5) of the District of Columbia Air Quality Control Act, submitted as a revision of the District's Implementation Plan. Concurrently, the Administrator amends 40 CRF 52.470 (Identification of Plan) of Subpart J (District of Columbia) to incorporate this Plan revision into the District's SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401–7642)

Dated: February 26, 1980.

Douglas M. Costle

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart J—District of Columbia

§ 52.470 Identification of plan.

* * * * *

c. The plan revisions listed below were submitted on the date specified.

* * *

(16) Amendments to Sections 8–2:702 (Definition Changes), 8–2:708 (Performance Testing), 8–2:713 (Visible Emissions), 8–2:718 (Emission Testing), 8–2:726 (Penalties) of the District's Air Quality Control Regulations, and Section 6–812(a)(5) (Penalties) of the District of Columbia's Air Quality Control Act submitted on December 27, 1978 by Mayor Walter E. Washington.

Approval of Revision of the District of Columbia Implementation Plan (Ref: AH300 aDC) Rationale Document

I. Background

On April 12, 1978, Council member Jerry A. Moore, Jr. introduced Bill 2–319, amending Regulation 72–12, the Air Quality Control Regulations of the District of Columbia. This Bill amends several sections of the Air Quality Control Regulations of the District of Columbia. One of the amendments is to Section 8–2:713 relating to visible emissions.

The original Section 8–2:713, as approved in the District's Implementation Plan by the Administrator, permitted discharges for "start up", cleaning, soot blowing, and/or adjusting combustion controls of boilers not exceeding 40% opacity (No. 2 on the Ringelmann Chart) for 4 minutes in any 60-minute period and for an aggregate of 24 minutes in any 24-hour period, until August 31, 1973. After that date, no visible discharges are permitted at any time. The most recent federally approved implementation plan revision relating to the District's visible emissions regulation was published in the Federal Register, Volume 43, at page 56662 on December 4, 1978. This amendment revised the requirement for "no visible emissions" at any time to a requirement that would not permit any visible emissions except for up to 40% opacity for a period of 2 minutes in any 60-minute period and for an aggregate of 12 minutes in any 24 hour period during "startup," cleaning, soot blowing, adjustment of combustion controls of boilers and/or unavoidable malfunction of equipment. This latest amendment would set new visible emissions limitations for old (Pre-January 1, 1977) fuel-burning equipment. It would allow emissions of 10% opacity at all times, as opposed to the present limit of no visible emissions. Additional emissions are also permitted during startup and shutdown of boilers. This amendment makes no changes in the standard as it applies to fuel-burning equipment placed in operation after January 1, 1977.

Other amendments included in this revision were to Sections 8–2:702 (Definition Changes), 8–2:708 (Performance Testing), 8–2:718 (Emissions Testing), 8–2:726 (Penalties) of the District's Air Quality Control Regulations (Regulation No. 72–12), and Section 6–812(a)(5) (Penalties) of the District of Columbia Air Quality Control Act.

The regulations as originally approved by District of Columbia City Council on July 7, 1972, contained definitions which required clarification. This plan revision (Section 8–2:702) will clarify these definitions.

The regulations as originally approved also required clarification on what the operating conditions should be when determining compliance with the particulate emission standard. This plan revision (Section 8–2:708) adds provisions describing the required operating conditions, thereby facilitating enforcement of the particulate standard.

Section (8–2:718) of this plan revision amends the District's requirements covering sampling, tests and procedures. It would allow the District more flexibility in requiring the performance of compliance tests and in requiring the submission of test reports. There are specific test methods prescribed and also a standard for the measurement of visible emissions.

The District's regulation dealing with the assessment of criminal penalties (Section 8–2:726) is revised by the plan revision to allow for more appropriate criminal penalties.

Bill 2–319 was submitted to EPA for approval as a revision to the District's Implementation Plan. The revision was submitted on December 27, 1978. A public hearing was held on this Bill on May 23, 1978. The District of Columbia provided certification that the public hearing was held on the above-mentioned amendments in accordance with the requirements of 40 C.F.R. Section 51.4. Three persons testified on this Bill during the public hearing and five others submitted statements for the record. In accordance with the District of Columbia, all the statements presented were in general support of the legislation with comments focusing on several areas: visible emissions, requiring source owners to conduct tests, and the increased penalties. Bill 2–319 was enacted by Council in September and approved by Mayor as Act 2–280 on October 16, 1978.

II. Control Strategy Demonstration

EPA's original position was that the District was required to submit a Control Strategy Demonstration along with its request for plan revision to the Visible Emissions Standard. The District did not present a Control Strategy Demonstration and advised EPA that its legal position is and always has been that Control Strategy Demonstrations are made from mass emission limits and that VE standards, whatever they may be, are irrelevant to such demonstrations. Several meetings were held and various correspondence was exchanged discussing the requirement for a Control Strategy Demonstration. Although the District did not submit the Control Strategy Demonstration, we are recommending approval of the revision to Section 8–2:713 and the other revisions comprising Act 2–280, since EPA performed its own screening analysis for area sources in the District of Columbia (copy attached) which showed that the change in the regulation would not significantly impact ambient air quality nor would it significantly change the particulate emissions presented in the Control Strategy Demonstration submitted as part of the Part D non-attainment plan revision. Also, the District repeatedly stated verbally and in its May 3, 1979 letter to Mr. Stephen R. Wassersug (which responded to EPA's concerns on these amendments), that this revision to the visible emissions standard would not cause a violation of mass emission limits by any source in the District. In its May 3, 1979 letter the District stated ". . . that fuel conversions have not affected compliance with the mass limits on PM emissions and if any such conversion would be expected to cause a complying order to violate the mass limits, such conversion could not be permitted by us." Additional statements supporting our recommendation for approval of these amendments are in the preamble to a final rulemaking we published on the most recent revision to the District's VE standard (43 Fed. Reg. 56662, December 4, 1978) which reads: ". . . Where emissions from a flue are addressed by a mass emissions limitation and a visible emissions requirement, the mass emissions limitation is controlling in any air quality demonstration . . .".

EPA's position is that a Control Strategy Demonstration is required for changes to visible emission regulations where they are deemed to be the limiting factor and where the attainment demonstration is based on actual emissions. However, in this case, due to the results of EPA's own screening analysis and assurance from the District of Columbia that there will be no change in the mass emission rate for particulate matter which would occur as a result of a change in

the VE regulations, EPA has accepted the District's position and is recommending approval of this amendment to the visible emissions regulation and the other amendments which comprise Act 2-280.

III. Public Comments

The Regional Administrator acknowledged receipt of the revision and proposed approval of the revision as part of the proposed rulemaking for the District of Columbia's revised Implementation Plan for those areas not attaining the National Ambient Air Quality Standards (44 Fed. Reg. 37236, June 26, 1979). The proposed rulemaking notice provided for thirty-day public comment period ending on July 26, 1979. The only comments received were those from the District of Columbia Department of Environmental Services itself requesting a clarification as to whether EPA intended to approve only revisions to Section 8-2:713 or all the amendments comprising Act 2-280. It is and has been EPA's intention to approve all the amendments contained in the Act.

IV. Policy Issues

There are no significant policy issues applicable to the approval of this revision with the exception of the issue regarding the need for a Control Strategy Demonstration addressed in Section II of this document. The only other item which should be mentioned is that the Government of the District of Columbia had requested in a letter to Stephen R. Wassersug, dated November 29, 1979, that separate action be taken on final approval of D.C. Law 2-133 (formerly Act 2-280) since final approval of Section 8-2:713 (the visible emissions regulation changes) would facilitate the prompt conclusion of litigation between the District and the Potomac Electric Power Company, as well as facilitate enforcement of the District's air quality laws against all sources in the District. Since there are significant problems inherent in the District of Columbia's legislation which complicate approval of the D.C. nonattainment SIP, we have decided to take separate action in accordance with the District's request for final approval of this portion of the SIP (D.C. Law 2-133).

V. EPA Evaluation

The attached screening analysis performed for area sources in the District of Columbia by EPA has shown that the effect on the emission inventory for area sources submitted as part of D.C.' s nonattainment SIP would constitute such an insignificant increase, that this would be enough of a showing that the basic conclusions of the SIP will not change. This analysis also showed that there will be no significant impact on ambient air quality. This, coupled with the District's assurance that mass emission limitations for sources within the District will not change and that the mass emission limitation will not be violated, has led EPA to the conclusion that approval of these amendments to the District's Implementation Plan will not violate any National Ambient Air Quality Standard and, therefore, should be approved.

VI. Conclusion

Therefore, it is concluded that changes to the District of Columbia's Implementation Plan which provide for a more realistic visible emission standard, provide more specific test procedures for testing stationary sources, and provide more appropriate criminal penalties will not interfere with attainment or maintenance of NAAQS, and that approval should be granted. In addition, all the procedural requirements of Section 110 of the Clean Air Act and 40 C.F.R. Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) have been met. Similarly, it is necessary to amend 40 C.F.R. Section 52.470 (Identification of Plan) of Subpart J (District of Columbia Implementation Plan).

D.C. Visible Emissions

Comparison of Actual/Allowable particulate emissions from cumbustion units for different types of fuel oil.

Heat input H (MMBtu/hr.)	Allowable (lb./MMBtu)	Emissions for various grades of fuel oil (lb./MMBtu): AP-42			
		#2	#4	#5	[1]#6
3.5	.13	.014	.047	.067	.087
10	.10	.014	.047	.067	.087
100	.07	.014	.047	.067	.087
1,000	.04	.014	.047	.067	.087
10,000	.02	.014	.047	.067	.087

[1] Assume 1 percent S.

This shows that it is not necessary to burn #2 fuel oil to be in compliance with the weight regulation for boilers with heat inputs up to 1,000 MMBtu/hr.

1980 and 1985 emissions inventory used emissions factor for *#6* fuel oil, even though some #4 and #5 oil was projected to be used. Thus this is a conservative bias.

Only a small portion of the 1980 and 1985 area source inventory was designated as light fuel oil combustion. If the worst-case assumption is made; i.e., that *all* of those sources burning light fuel oil were to convert to #6 due to the relaxation of the V.E. standard, the effect on the emissions inventory (area sources) would be an increase of 3.3%.[1] Due to the conservatism built into the assumptions, this would be enough of a showing that the basic conclusions of the SIP would not change. (See below).

This showing would have to be made for *point* sources as well as *area* sources.

Justification for believing that the basic conclusions will not change:

"Worst case" predicted impact from point and area sources is at the West End monitor, 24 ug/m^3.[2] A 3% increase in the area *emissions* sector can be expected to cause an increase of no more than 1 ug/m^3 (3.3% x 24 ug/m^3 <1 ug/m^3) predicted air quality from that sector (although the emissions/air quality relationship is by no means linear, it is felt that this is a reasonably good approximation for the case of an urban area like D.C. which has good source mix; i.e., not dominated by point sources and also not having complex terrain). This small of an increase does not change the basic conclusion of the SIP; i.e., that fugitive emissions are the major problem. It may change the assessment of fugitive control needed; however, the current assessment is just a rough estimate and will be refined by further study. The further study should include the potential increase in point source emissions due to the relaxation of the V.E. regulation.

[FR Doc. 80-6586 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[1] 17.44 TPY in 1980 due to light fuel oil combustion. Change to #6: (17.44) $\frac{(10S+3)}{2}$ (assume S=1)=113.36-17.44=95.92 TPY increase= $\frac{(95.92)}{2891}$ (100) =3.3%

[2] Per Part D SIP revision demonstration.

40 CFR Part 85

[FRL 1416-8]

Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These amendments (1) revise a statutory citation in the regulations governing exclusion and exemption of motor vehicles and motor vehicle engines from certain prohibitions or requirements under the Clean Air Act and (2) extend the availability of an exemption under section 203(b)(1) of the Act to additional parties consistent with the 1977 Amendments to the Clean Air Act.

EFFECTIVE DATE: March 3, 1980. The EPA will, however, consider revisions based upon any comments it receives on or before April 2, 1980.

ADDRESS: Send written comments to: Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: L. Keith Silva, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 472-9413.

SUPPLEMENTARY INFORMATION: This amendment revises the current regulations in two respects. First, all

references to the Clean Air Act definition of "motor vehicle" have been changed to specify section 216(2) rather than section 214(2) of the Act. This change reflects renumbering of some of the Act's provisions as a result of the Clean Air Act Amendments of 1977.

Second, the current regulations relating to exemption of motor vehicles and motor vehicle engines from the prohibitions of section 203(a) have been changed, consistent with the 1977 Amendments, to permit any person (rather than manufacturers only) to request such an exemption.

Section 203(b)(1) of the Act states:

> The Administrator may exempt any new motor vehicle or new motor vehicle engine form subsection (a), upon such terms and conditions as he may find necessary for the purpose of research, investigations, studies, demonstations, or training, or for reasons of national security.

The phrase "subsection (a)" refers to section 203(a) of the Act, which specifies certain acts that are prohibited. Section 203(a)(1) prohibits manufacturers from selling or introducing into commerce vehicles not covered by a certificate of conformity. Section 203(a)(3) prohibits any person from removing or rendering inoperative any device or element of design of a vehicle's emission control system (often referred to as "tampering") before sale to the ultimate purchaser. Prior to the 1977 Amendments to the Act, section 203(a)(3) also prohibited manufacturers and dealers from tampering after a vehicle or engine had been sold to an ultimate purchaser (i.e., an in-use vehicle or engine). Aftermarket parts manufacturers, original equipment component vendors, and other persons not associated with a manufacturer or dealer were not covered by the latter provision and, as a result, were not prohibited from performing tests with in-use vehicles involving modifications to their emission control systems, or subcontracting such work to commercial vehicle service facilities not associated with a manufacturer or dealer.

Prior to the 1977 Amendments, EPA considered the scope of section 203(a), determined that only a manufacturer had a valid basis for requesting an exemption under section 203(b)(1), and promulgated the current regulations accordingly.

The 1977 Amendments broadened the existing tampering prohibitions concerning in-use vehicles by adding section 203(a)(3)(B), which covers:

> Any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles * * *.

Consequently, many of the persons previously not subject to section 203(a)(3) are now prohibited from tampering. In addition, any person is prohibited by section 203(a) from "causing" tampering by subcontracting vehicle modification work to commercial vehicle service facilities or other persons included within the scope of section 203(a)(3).

In light of the 1977 Amendments, EPA finds substantial reason for allowing persons other than manufacturers to request exemptions under section 203(b)(1). Many of the vehicle tests conducted by manufacturers, as well as persons other than manufacturers, are directed toward improving vehicle emisson control technology or fuel economy and are consistent with the bases for exemption set forth in the Act. Commercial vehicle service facilities and fleet operators who wish to perform test vehicle modification work involving tampering are now prohibited from doing so by section 203(a)(3)(B) unless the test vehicles are covered by an exemption issued under section 203(b)(1). Further, absent an exemption covering the test vehicles, persons other than those named in section 203(a)(3) may face possible liability for "causing" tampering if test vehicle modifications involving tampering are performed at their direction by commercial vehicle service facilities or other persons named in section 203(a)(3). Therefore, EPA is amending the regulations to permit any person to request a testing exemption under section 203(b)(1) of the Act.

EPA finds good cause to dispense with notice and public comment in this rulemaking because the amendments merely reflect changes in the Act in a manner that does not adversely affect any interested party. In addition, several applications for exemptions recently have been submitted by persons wishing to conduct test programs with possible beneficial impacts on fuel economy and emissions performance. Delay in promulgation of these regulations would be detrimental to these programs and contrary to the public interest.

EPA also finds that the amendments should be effective upon publication, both for the above reasons and because the substantive amendment is one which recognizes an exemption and relieves a restriction. EPA will, however, consider revisions based upon any comments it receives on or before the close of the comment period specified above.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels the other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: February 26, 1980.

Douglas M. Costle,

Administrator.

Accordingly, 40 CFR Part 85, Subpart R, is amended as follows:

1. The blanket citation of authority for Subpart R is revised to read as follows:

> Authority: Secs. 203(b)(1), 216(2), and 301 of the Clean Air Act (42 U.S.C. 7522, 7550 and 7061).

§ 85.1702 [Amended]

2. The end of paragraph (a)(5) of § 85.1702 is revised by deleting "where lease or sale of the test vehicle or engine is involved" and placing a period after the word "security".

§ 85.1703 [Amended]

3. The title of § 85.1703 and the first sentence of paragraph (a) of § 85.1703 are revised by changing "section 214(2)" to read "section 216(2)".

4. § 85.1704 is revised to read as follows:

§ 85.1704 Who may request an exemption.

(a) Any person may request a testing exemption.

(b) Any manufacturer may request a national security exemption under § 85.1706.

(c) Manufacturers may exempt, without application, vehicles or engines as provided by § 85.1707.

§ 85.1705 [Amended]

5. The first sentence of paragraph (a) of § 85.1705 is revised by changing "Any manufacturer requesting" to read "Any person requesting".

6. The first sentence of paragraph (c) of § 85.1705 is revised by changing "performing one or more of the prohibited acts under section 203(a)." to read "performing or causing to be performed one or more of the prohibited acts under section 203(a)."

7. Paragraph (d)(3) of § 85.1705 is revised by deleting the first word and adding "For manufacturers, the" at the beginning of the first sentence.

§ 85.1708 [Amended]

8. The first sentence of paragraph (a) of § 85.1708 is revised by changing "manufacturer requesting" to read "person requesting".

9. The third sentence of paragraph (b) of § 85.1708 is revised to read as follows:

§ 85.1708 Granting of Exemptions.

(b) * * * Consequently, the causing or the performing of an act prohibited under sections 203(a) (1) or (3) of the

Clean Air Act other than in strict conformity with all terms and conditions of this exemption shall render the person to whom the exemption is granted, and any other person to whom the provisions of section 203 are applicable, liable to suit under sections 204 and 205 of the Act.

(Sec. 203(b)(1), 216(2), and 301 of the Clean Air Act (42 U.S.C. 7522, 7550 and 7061))

[FR Doc. 80-6595 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FRP Temp. Reg. 49, Supp. 1]

Use of Benchmarking and Remote Terminal Emulation in the Procurement of Automated Data Processing (ADP) Systems and Services

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to FPR Temporary Regulation 49 modifies the policies regarding the use of benchmarking and provides for the use of a new GSA Handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions. The availability of the handbook will be announced by a future FPR bulletin. The basis for use of the handbook is provided by the supplement. The intended effect is to enable Federal agencies to design and conduct benchmark and remote terminal emulation tests that reflect the current technology and are practical, fair, and equitable for both the Government and vendors of ADP equipment and services.

DATES: Effective date: April 2, 1980. The provisions of the regulation and the handbook shall be applied to applicable requests for proposals issued by agencies after July 31, 1980.

Expiration date: This regulation will continue in effect until canceled.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (703) 557-8947.

(Sec. 205(c), 63 Stat. 390, (40 U.S.C. 486(c)))

In 41 CFR Chapter 1, FPR Temporary Regulation 49, Supplement 1 is added to the appendix at the end of the chapter.

[Federal Procurement Regs.; Temporary Reg. 49, Supp. 1]

Use of Benchmarking and Remote Terminal Emulation for Performance Validation in the Procurement of Automated Data Processing (ADP) Systems and Services

February 21, 1980.

1. *Purpose.* This supplement modifies the policies regarding the use of benchmarking and remote terminal emulation and provides for the use of the GSA handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions, August 1979, (see Subpart 1-4.11).

2. *Effective date.* This regulation is effective April 2, 1980. The provisions of the regulation and the handbook shall be applied to applicable requests for proposals issued by agencies after July 31, 1980.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Explanation of changes.* The following changes are made to FPR Temporary Regulation 49.

a. Subparagraph 6b is revised to read as follows:

"b. *Use of remote terminal emulation for ADP system procurements.* (1) Each agency shall determine whether or not to require the mandatory use of remote terminal emulation during each ADP system procurement. An agency should study the GSA Handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions, August 1979, (see Subpart 1-4.11), before making its determination.

(2) When an agency requires the mandatory use of remote terminal emulation during an ADP system procurement, the agency:

(i) Shall follow all mandatory procedures contained in the GSA Handbook;

(ii) Shall not require remote terminal emulation capabilities that are not explicitly defined in the GSA Handbook;

(iii) May declare an offer nonresponsive and may disqualify the offeror from an award if the offeror fails to provide the remote terminal emulation capabilities required by the solicitation; and

(iv) Shall not require an offeror to conduct a benchmark test using remote terminal emulation at the agency's site.

(3) Any agency desiring to deviate from the policy defined in subparagraph 6b(2) shall request authority from GSA to deviate before the issuance of the solicitation document.

(i) To request a deviation authority, an agency shall provide to the General Services Administration (CDS), Washington, DC 20405, a detailed, technical description and justification for each specific deviation desired.

(ii) When granted authority to deviate, an agency shall provide promptly to potential offerors detailed instructions specifying all mandatory remote terminal emulation capabilities not defined in the GSA Handbook and the exact manner in which each emulation benchmark test must be conducted. A notice indicating the availability of these materials shall be published in the Commerce Business Daily (CBD) at least 60 calendar days before the release of the solicitation document."

b. Subparagraph 6c is amended to delete from subparagraph (2) the phrase "for requirements other than those listed in subparagraph 6c(1)".

c. Paragraph 7 is revised to read as follows:

"7. *Agency implementation of remote terminal emulation policy.* a. The GSA Handbook, Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions, August 1979 (see Subpart 1-4.11), has been prepared to provide guidance to Federal agencies in designing and conducting benchmark tests. The handbook summarizes introductory concepts and terminology of benchmarking and remote terminal emulation, describes when and how agencies should use remote terminal emulation, and specifies the remote terminal emulation capabilities that an agency may require offerors to provide for testing ADP systems during acquisition.

b. Copies of the handbook are available. Requests for copies of and inquiries concerning the handbook should be submitted in writing to the General Services Administration (CDD), Washington, DC 20405."

d. Paragraph 8 is deleted.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-6496 Filed 2-29-80; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Ch. 1

[FPR Temp. Reg. 45, Supp. 2]

Fair and Equitable Compensation to Professional Employees Under Federal Contracts for Services

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement furnishes additional guidance for inclusion in Attachment A to eliminate problems experienced in connection with the negotiation of service contracts involving professionals and to ensure

appropriate implementation of the requirements of Temporary Regulation 45.

DATES: Effective date: March 3, 1980. Expiration date: April 1, 1981, unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 1, the following FPR Temporary Regulation 45, Supplement 2, is added to the appendix at the end of the chapter.

[Federal Procurement Regs.; Temporary Reg. 45; Supp. 2]

Fair and Equitable Compensation to Professional Employees Under Federal Contracts for Services

February 20, 1980.

1. *Purpose.* The supplement furnishes additional guidance for inclusion in Attachment A of Temporary Regulation 45.

2. *Effective date.* This regulation is effective March 3, 1980.

3. *Expiration date.* This supplement will expire on April 1, 1981, unless canceled earlier.

4. *Explanation of change.* Paragraph (a) of the INSTRUCTIONS TO OFFERORS in Attachment A is changed by adding a sentence at the end of the paragraph to read as follows:

"Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional public and private organizations, used in establishing the total compensation structure."

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-6530 Filed 2-29-80; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 146

Modern Foreign Language and Area Studies; Award Fellowships

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: The Commissioner of Education amends Subpart D of the Modern Foreign Language and Area Studies Fellowships Program regulations. The amended regulations will allow the Office of Education to award stipends to Fellows undergoing intensive language training during summer sessions.

EFFECTIVE DATE: The regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Joseph Belmonte, Chief, Centers and Research Section, Division of International Education, 400 Maryland Avenue, SW. (Room 3923, Regional Office Building #3), Washington, D.C. 20202 (202–245–2636).

SUPPLEMENTARY INFORMATION: In order to award fellowships for summer sessions, the Office of Education anticipates that it must award a quota of fellowships for this purpose early in 1980 so that each institution awarded these fellowships will have time to conduct a competition among its students, nominate candidates for fellowships and inform the Commissioner of its nominations. Moreover, there also must be time for the Commissioner to select the fellowships, notify the institution of the selections and finally award the funds to the students. Because of these time constraints, the Commissioner finds that the publication of a proposed rule in this instance would be unnecessary, impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(b), and is publishing this rule as a final regulation.

Dated: February 5, 1980.

(Catalog of Federal Domestic Assistance No. 13.434, Foreign Language and Area Studies Fellowships Program, and 13.435A, International Studies Centers Program)

William L. Smith,

Commissioner of Education.

Approved: February 22, 1980.

Nathan J. Stark,

Acting Secretary of Health, Education, and Welfare.

Section 146.37 of Part 146 of Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 146.37 Duration, amount, and payment of fellowships.

(a) *Duration.* (1) The Commissioner will award fellowships for (i) one academic year, (ii) one academic year plus one summer session, or (iii) one summer session.

(2) Fellowships may not be revoked without the approval of the Commissioner nor may they be postponed to a period subsequent to that specified in the award.

(3) No applicant may receive more than a cumulative total of 48 months fellowship support (including the time period of the grant applied for) under Title VI of the National Defense Education Act and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act (Pub. L. 87–256—Fulbright-Hays Act). Of the 48 months maximum, support for dissertation research is limited to either (i) 12 months overseas under Fulbright-Hays and 9 months in the United States under Title VI for dissertation completion or (ii) a maximum of 18 months in the United States for dissertation research.

(b) *Amount.* Each fellowship will include the cost of tuition and fees and a maintenance allowance. The maintenance allowance equals $2,925.00 per academic year and $650.00 per summer session.

(c) *Summer Session.* A student may receive a fellowship for a summer session only if the student enrolls in a program during that period which will provide the equivalent of one academic year of language study. Teachers who meet the eligibility requirements in § 146.35 may participate in the program as students.

(d) If a fellow is enrolled in an established advanced language program overseas, set up by an American institution of higher education and approved by the Commissioner for purposes of this subpart, tuition charges shall reflect the tuition costs of the overseas program only; if required by university policy, a nominal fee for in absentia registration at the home institution may be included in the award.

(e) Payments shall be made in installments to cover a specific period, and shall be paid as long as the fellow is enrolled and in good standing. In the event of overpayment or underpayment of award benefits, the student must notify his institution so that appropriate allowance adjustments can be made; however, all award increases are subject to the availability of funds. Overpayments may not be retained by the student.

(20 U.S.C. 511(b))

[FR Doc. 80-6584 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 185

[CGD 78-009]

Safety Orientation of Passengers

Correction

In FR Doc. 80-5168 appearing on page 11108 in the issue of Tuesday, February 19, 1980, make the following correction:

On page 11110, under § 185.25-1, the second paragraph, *Safety orientation,* should have been designated "(d)" instead of "(b)".

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 69-19; Notice 18]

Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration, (DOT).

ACTION: Final rule.

SUMMARY: This notice finalizes the interim amendment of Motor Vehicle Safety Standard No. 108 adopted effective September 1, 1978, which retained the requirement that stop lamp lenses on motor driven cycles be a minimum of 3½ square inches.

EFFECTIVE DATE: February 19, 1980.

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On August 31, 1978, the agency published an interim rule and request for comments (43 FR 38831) deleting the requirement that low-speed motor driven cycles (mopeds) have larger stop lamps effective September 1, 1978, and asking whether the amendment should be made permanent. NHTSA noted it did not intend to include these vehicles in earlier amendments increasing the size of stop lamp lenses from a minimum of 3½ square inches to 8 square inches. The agency believed that moped conspicuity and safety would be reduced if lamps on these low-powered vehicles were required to have a larger lens area without being required also to have higher light output. The effect of the interim amendment, therefore, was to retain the existing requirements.

Three comments were received in response to that Notice. Two supported the rule but the California Highway Patrol opposed it on the basis that moped rear lighting needs improvement. As noted above, simply reinstating the requirement for increased lens area would not improve safety. However, the agency intends to ask for comments in the near future on this aspect of moped safety.

The program official and lawyer responsible for the development of this rule are Marx Elliott and Taylor Vinson respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1497); delegations of authority at 49 CFR 1.50)

Issued on February 19, 1980.

Joan Claybrook,

Administrator.

In consideration of the foregoing, NHTSA hereby makes final the interim revision of paragraph S4.1.1.27 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, adopted on August 31, 1978, which reads as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108.

* * * * *

S4.1.1.27 A motor-driven cycle whose speed attainable in 1 mile is 30 m.p.h. or less may be equipped with a stop lamp whose effective projected luminous lens area is not less than 3½ square inches and whose photometric output for the groups of test points specified in Figure 1 is at least one-half of the minimum values set forth in that figure.

[FR Doc. 80-6340 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1428]

Southeastern Wisconsin Transportation Corp. d.b.a. Wisconsin Central Railroad Co. Authorized To Operate Over Tracks Abandoned by Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Decided: February 22, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1428.

SUMMARY: Authorizes the Southeastern Wisconsin Transportation Corp. d.b.a. Wisconsin Central Railroad Company to operate over tracks abandoned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company between Waukesha, Wisconsin, and Milton Junction, Wisconsin.

EFFECTIVE DATE: 12:01 a.m., February 26, 1980.

EXPIRATION DATE: 11:59 p.m., July 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202-275-7840).

SUPPLEMENTARY INFORMATION: The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Waukesha, Wisconsin, and Milton Juction, Wisconsin, was approved for abandonment by the Interstate Commerce Commission (ICC) in Docket AB-7 (Sub No. 59F). The State of Wisconsin and the City of Whitewater, Wisconsin, are acquiring this line and will lease the line to the Southeastern Wisconsin Transportation Corporation d.b.a. Wisconsin Central Railroad Company (WCRC) in order to continue essential rail service to shippers on this line. The ICC approved the acquisition of this line in Finance Docket No. 29237 by the State of Wisconsin.

WCRC has filed an application with the Commission for permanent authority to operate this line between Waukesha and Milton Junction.

It is the opinion of the Commission that an emergency exists requiring the operation by WCRC over tracks abandoned by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1428 Service Order No. 1428.

(a) *Southeastern Wisconsin Transportation Corp. d.b.a. Wisconsin Central Railroad Company authorized to operate over tracks abandoned by Chicago, Milwaukee, St. Paul and Pacific Railroad Company.* The Southeastern Wisconsin Transportation Corp. d.b.a. Wisconsin Central Railroad Company (WCRC) is authorized to operate over tracks abandoned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) and leased from the State of Wisconsin and the City of Whitewater, Wisconsin, between Waukesha, Wisconsin (milepost 20.5), and Milton Junction, Wisconsin (milepost 61.5), a distance of approximately 41.0 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of

WCRC seeking authority to operate over these tracks.

(d) *Rate applicable.* Inasmuch as this operation by WCRC over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via WCRC become effective.

(e) In transporting traffic over these lines, WCRC and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., February 26, 1980.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-6589 Filed 2-29-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1426]

Chicago, Madison, and Northern Railway Co. Authorized to Operate Over Tracks Abandoned by Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Decided: February 22, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1426.

SUMMARY: Authorizes the Chicago, Madison and Northern Railway Company to operate over tracks abandoned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company between Sparta, Wisconsin, and Viroqua, Wisconsin.

EFFECTIVE DATE: 12:01 a.m., February 26, 1980.

EXPIRATION DATE: 11:59 p.m., July 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202-275-7840).

SUPPLEMENTARY INFORMATION:

The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Sparta, Wisconsin, and Viroqua, Wisconsin, was approved for abandonment by the Interstate Commerce Commission (ICC) in Docket AB-7 (Sub. No. 37). The State of Wisconsin and the Viroqua-Westby-Vernon Transit Commission are acquiring this line and will lease the line to the Chicago, Madison and Northern Railway Company (CM&N) in order to continue essential rail service to shippers on this line. The ICC approved the acquisition of this line in Finance Docket No. 29237 by the State of Wisconsin. CM&N has filed an application with the Commission for permanent authority to operate this line between Sparta and Viroqua. The MILW has agreed to the use of these tracks by the CM&N.

It is the opinion of the Commission that an emergency exists requiring the operation by CM&N over tracks abandoned by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1426 Service Order No. 1426.

(a) *Chicago, Madison and Northern Railway Company authorized to operate over tracks abandoned by Chicago, Milwaukee, St. Paul and Pacific Railroad Company.* The Chicago, Madison and Northern Railway Company (CM&N) is authorized to operate over tracks abandoned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) and leased from the State of Wisconsin and the Viroqua-Westby-Vernon Transit Commission between Sparta, Wisconsin (milepost 2.5), and Viroqua, Wisconsin (milepost 34.7), a distance of approximately 32.2 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of CM&N seeking authority to operate over these tracks.

(d) *Rate applicable.* Inasmuch as this operation by CM&N over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via CM&N become effective.

(e) In transporting traffic over these lines, CM&N and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist betwen them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., February 26, 1980.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-6590 Filed 2-29-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1427]

Chicago, Madison & Northern Railway Co. authorized to Operate Over Tracks Leased From the State of Wisconsin

Decided: February 22, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1427.

SUMMARY: Authorizes the Chicago, Madison and Northern Railway Company to operate over tracks formerly operated by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, and leased from the State of Wisconsin. This line extends from Janesville, Wisconsin, to Mineral Point, Wisconsin.

EFFECTIVE DATE: 12:01 a.m., February 26, 1980.

EXPIRATION DATE: 11:59 p.m., July 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202-275-7840).

SUPPLEMENTARY INFORMATION: The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Monroe, Wisconsin, and Mineral Point, Wisconsin, was approved for abandonment by the Interstate Commerce Commission (ICC) in Docket AB-7 (Sub No. 49). MILW has announced its intention to abandon the line from Janesville to Monroe, and the Federal District Court has authorized the lease of the line to the State of Wisconsin. The State of Wisconsin and the Pecatonica Transit Commission are acquiring the entire line from Janesville to Mineral Point and will lease the line to the Chicago, Madison and Northern Railway Company (CM&N) in order to continue essential rail service to shippers on this line. The ICC approved the acquisition of the line from Monroe to Mineral Point in Finance Docket No. 29237 by the State of Wisconsin, and the State of Wisconsin has filed an application with the Commission to acquire the Janesville to Monroe line. CM&N has filed an application with the Commission for permanent authority to operate this line between Janesville and Mineral Point. The MILW has agreed to the use of these tracks by the CM&N.

It is the opinion of the Commission that an emergency exists requiring the operation by CM&N over tracks abandoned by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1427 Service Order No. 1427.

(a) *Chicago, Madison and Northern Railway Company authorized to operate over tracks leased from the State of Wisconsin.* The Chicago, Madison and Northern Railway Company (CM&N) is authorized to operate over tracks leased from the State of Wisconsin and the Pecatonica Transit Commission between Janesville, Wisconsin (milepost 10.0), and Mineral Point, Wisconsin (milepost 90.7), a distance of approximately 80.7 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of CM&N seeking authority to operate over these tracks.

(d) *Rate applicable.* Inasmuch as this operation by CM&N over tracks previously operated by the MILW is deemed to be due to carriers's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via CM&N become effective.

(e) In transporting traffic over these lines, CM&N and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., February 26, 1980.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-6591 Filed 2-29-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 43
Monday, March 3, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 30, 40, 50, 51, 70, and 110

Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering revising Part 51 of its regulations to implement section 102(2) of the National Environmental Policy Act of 1969, as amended (NEPA), in a manner which is consistent with the NRC's domestic licensing and related regulatory authority and which reflects the Commission's policy to take account voluntarily, subject to certain conditions, of the regulations of the Council on Environmental Quality implementing the procedural provisions of NEPA.

DATE: Comment period expires May 2, 1980.

ADDRESSES: All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed rule should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of all comments received may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jane R. Mapes, Assistant Regulations Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: (301) 492–8695.

SUPPLEMENTARY INFORMATION: On July 18, 1974 (39 FR 26279), the Atomic Energy Commission, the Nuclear Regulatory Commission's predecessor agency, published a new Part 51 in order to consolidate Commission policy and procedure for implementing section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA), in one place in the Commission's regulations. Part 51, which became effective August 19, 1974, was also intended to implement revised Guidelines of the Council on Environmental Quality which were published in the Federal Register on August 1, 1973 (38 FR 20550–20562) and pertained to preparation of environmental impact statements under NEPA. When the Nuclear Regulatory Commission was established on January 19, 1975, it retained 10 CFR Part 51 as part of its regulations.

On May 24, 1977, the President issued Executive Order 11991 (42 FR 26957–26958, May 25, 1977) which directed the Council on Environmental Quality (CEQ) to issue regulations to the Federal agencies to implement all the procedural provisions of NEPA. In this same Executive Order, the President also directed Federal agencies to comply with regulations issued by CEQ "except where such compliance would be inconsistent with statutory requirements."

In response to the President's directive, and after an extensive period of study, consultation and review which included public hearings, issuance of draft regulations and a two month period for public review and comment, the Council on Environmental Quality published final regulations implementing the procedural provisions of NEPA and announced that these regulations would become effective July 30, 1979 (43 FR 55978–56007, November 29, 1978). The regulations stated that the Council's current guidelines, as published in the Federal Register on August 1, 1973, would remain in effect until that date.

Following publication November 29, 1978, CEQ's NEPA regulations were closely studied by NRC staff. On May 1, 1979, NRC staff submitted a paper to the Commission (SECY–79–305) informing the Commission of the results of the staff's analysis of CEQ's NEPA regulations and requesting guidance. In response, the Commission prepared a letter for the signature of the Chairman which was sent to the Chairman of the Council on Environmental Quality on May 31, 1979 expressing the Commission's view "that a sound accommodation can be reached between NRC's independent regulatory responsibilities and CEQ's objective of establishing uniform NEPA procedures" and stating that "the Commission would undertake to develop regulations to take account of CEQ's NEPA regulations voluntarily," subject to the following conditions:

"1. The Commission reserves the right to examine future interpretations or changes to the regulations on a case-by-case basis.

"2. The effect of some specific provisions of CEQ's NEPA regulations (e.g., 1502.14(b), 1502.22(b) and 1508.18) on the Commission's regulatory activities is unclear. (*See* SECY–79–305, available in the Commission's Public Document Room.) The Commission will devote additional study to these matters before developing implementing regulations.

"3. NRC reserves the right to prepare an independent environmental impact statement whenever it has jurisdiction over a particular activity even though it has not been designated as lead agency for preparation of the statement.

"4. NRC reserves the right to make a final decision on all matters within its regulatory authority despite the provisions of 40 CFR Part 1504 which provide procedures for predecision referrals to CEQ, should such procedures be employed by another agency with respect to an NRC action."

In the paper to the Commission (SECY–79–305 at p. 12), NRC staff also identified several specific provisions of the CEQ NEPA regulations (see SECY–79–305, Enclosure D) which could present problems if NRC were not allowed flexibility in implementing them. In that paper, the NRC staff informed the Commission that CEQ had been consulted informally about these provisions and that based on CEQ's response to the NRC staff's concerns, it did not appear that implementation of these provisions would be difficult.

In the opinion of the Commission, the proposed revision of 10 CFR Part 51 published today for public comment provides a reasonable and sound accommodation between NRC's independent regulatory responsibilities and CEQ's objective of establishing uniform NEPA procedures. It also reflects a recognition of the Commission's role (in its licensing capacity as opposed to its enforcement

capacity) as a licensing body whose principal function is to approve or disapprove, not to initiate, a proposal. After expiration of the comment period and review and analysis of any comments submitted, the Commission will decide whether to adopt the proposed revision of Part 51, with any modifications that may be necessary, as a final rule. Until a final rule is adopted, the Commission's present regulations will remain in effect.

The proposed revision would restructure 10 CFR Part 51 into several subparts. Proposed regulations implementing section 102(2) of NEPA are set out in Subpart A. It is the Commission's plan to add subparts as necessary to incorporate any additional regulations which may be required to implement provisions of other environmental laws.

Environmental protection regulations contained in proposed Part 51 only apply to the NRC's domestic licensing and related regulatory functions. The proposed regulations do not apply to export licensing matters within the scope of 10 CFR Part 110. (The proposed regulations do cover imports of nuclear facilities and materials.) Nor do the proposed regulations apply to any environmental effects which NRC's licensing and related regulatory functions may have upon the environment of foreign nations or the global commons. (The global commons comprises areas outside the jurisdiction of any nation, e.g., the oceans or Antarctica.)[1] This approach is consistent with that taken by the Council on Environmental Quality in the preamble to its effective NEPA regulations, namely that it was not the purpose of those regulations to resolve the question of whether NEPA applies abroad.[2]

In addition to these limitations, the regulations in proposed Subpart A also state that Commission actions initiating or relating to administrative or judicial civil or criminal enforcement actions or proceedings are not subject to section 102(2) of NEPA (§ 51.10(d)) and that Subpart A does not address any limitations on the NRC's authority and responsibility pursuant to NEPA imposed by the Federal Water Pollution Control Act Amendments of 1972 (§ 51.10(c)).

Section 51.10(b) identifies those provisions of the Council's regulations which the Commission chooses, as a matter of policy, to follow, and those provisions to which the Commission will devote further study before deciding to what extent such provisions may or should mandate a change in present Commission policy. The latter are 40 CFR 1502.14(b), 1502.22 (a) and (b), and the portion of § 1508.18 which includes within the definition of major Federal action "the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action."

Section 51.10(b) also provides that the Commission will:

(1) Examine any future interpretation or change to the Council's NEPA regulations;

(2) Follow the provisions of 40 CFR 1501.5 and 1501.6 relating to lead agencies and cooperating agencies, except that the Commission reserves the right to prepare an independent environmental impact statement whenever the Commission has regulatory jurisdiction over an activity, even though the Commission has not been designated as lead agency for preparation of the statement; and

(3) Reserve the right to make a final decision on any matter within the Commission's regulatory authority even though another agency has made a predecisional referral of an NRC action to the Council under the procedures of 40 CFR Part 1504.

Unlike the present text of 10 CFR Part 51, which contains procedures implementing the provisions of section 102(2)(C) of NEPA relating to the preparation and use of environmental impact statements, proposed Subpart A contains procedures implementing all the provisions of section 102(2) of NEPA. In preparing the proposed revision of 10 CFR Part 51, the Commission has been mindful of, and has attempted to reflect in these proposed regulations, the fact that in exercising its licensing functions, the Commission is limited to approval or denial of applicaitons. Except for its power to condition its approval of the proposed action, the Commission lacks authority to require other alternatives to that action to be pursued.

The provisions of proposed Subpart A are organized under several broad headings which reflect, in part, the procedural order of the NRC NEPA process. (In order to provide room for possible future expansion, certain section numbers have been intentionally omitted.)

Sections grouped under the heading "Preliminary Procedures" (§§ 51.20–51.35) include those identifying types of actions requiring environmental impact statements or environmental assessments or excluded from the NEPA process as categorical exclusions (§§ 51.20, 51.21 and 51.22). The requisite findings supporting the categorical exclusions listed in § 51.22(c) of the proposed rule are set out in the statement of considerations under the heading "Categorical Exclusions."

When proposed Subpart A becomes effective, all Commission actions, except actions totally excluded from Subpart A, and actions falling within classes of actions designated as categorical exclusions, will be subject to the NRC NEPA review process. As a consequence, many actions which were previously excluded from NEPA review (specifically those actions described in 10 CFR 51.5(d)(4) of the Commission's present regulations) [3] will require environmental assessments. To limit the preparation of environmental assessments to those types of actions for which they are really needed, additional categorical exclusions might be established. Comments and suggestions on this matter are invited.

Also included under "Preliminary Procedures" are sections directing the NRC staff to determine what NEPA procedures are applicable to a particular proposed action, to publish a notice of intent and conduct a scoping process whenever the staff plans to prepare an environmental impact statement, and to publish any finding of no significant impact. Section 51.33 contains procedures which will enable the staff in difficult cases to prepare and obtain comments on a draft finding of no significant impact before deciding whether to issue a final finding of no significant impact or to prepare an environmental impact statement.

Section 51.28, which describes the scoping process, directs the appropriate NRC staff director or his designee to prepare a concise summary of the determinations and conclusions reached and significant issues identified and to furnish copies of the summary to each participant. Section 51.28 also authorizes the appropriate NRC staff director or his

[1] Executive Order 12114, January 5, 1979, on "Environmental Effects Abroad of Major Federal Actions," Section 2-3(a).

[2] 43 FR 55978 at 55989, November 29, 1978. *"Comments on the application of NEPA abroad.* Several commenters urged that the question of whether NEPA applies abroad be resolved by these regulations. However, the President has publicly announced his intention to address this issue in an Executive Order. The Executive Order, when issued, will represent the position of the Administration on that issue." See footnote 1.

[3] 10 CFR 51.5(d)(4) states: "(d) Unless otherwise determined by the Commission, an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with the following types of actions: * * * (4) Issuance of a materials license or amendment to or renewal of a materials or facility license or permit or order other than those covered by paragraphs (a) and (b) of this section."

designee at any time prior to issuance of the draft environmental impact statement to revise the determinations made in the scoping summary as appropriate, if substantial changes are made in the proposed action, or if significant new circumstances or information arise which bear on the proposed action or its impacts.

The provisions in Subpart A which describe how applicants and petitioners shall participate in the NRC NEPA process (§§ 51.40–51.66) are grouped together under the general heading "Environmental Reports and Information—Requirements Applicable to Applicants and Petitioners." General requirements applicable to all applicants and petitioners (§§ 51.40, 51.41 and 51.45) are followed by specific provisions which apply respectively to applicants seeking licenses for production or utilization facilities (§§ 51.50–51.55), applicants seeking materials licenses (§§ 51.60–51.61), and petitioners for rule making (§§ 51.65–51.66).

Provisions relating to the preparation and distribution of draft and final environmental impact statements and any supplements to those statements and provisions governing requests for comments on draft environmental impact statements and on supplements to both draft and final environmental impact statements (§§ 51.70–51.99) appear under the general heading "Environmental Impact Statements." Following the pattern established in the sections relating to environmental reports, general requirements applicable to all types of environmental impact statements (§§ 51.70–51.74, and §§ 51.90–51.94) precede additional specific requirements applicable respectively to statements prepared in connection with production and utilization facilities (§§ 51.75, 51.76, 51.77 and 51.95), materials licenses (§§ 51.80, 51.81 and 51.97), rulemaking (§§ 51.85, 51.86 and 51.99), and legislation (§ 51.88).

The primary purpose of the NEPA process is to make environmental information available to public officials and citizens before decisions are made and actions taken. The process is intended to help public officials make decisions that are based on an understanding of environmental consequences and take actions that will protect, restore and enhance the environment. To achieve these goals CEQ's NEPA regulations contain provisions limiting agency actions. For example, under 40 CFR 1506.10, a Federal agency may neither make nor record a decision on a proposed action requiring an environmental impact statement until the later of the following dates—90 days after publication of a notice of availability of draft environmental impact statement or 30 days after publication of a notice of availability of a final environmental impact statement. 40 CFR 1506.1(a) prohibits a Federal agency, which has made a decision in connection with a proposed action for which an environmental impact statement is required, from acting on that decision until after a formal record of decision (see 40 CFR 1505.2) has been issued. Proposed Subpart A contains parallel provisions (§§ 51.100, 51.101, 51.102) under the heading "NEPA Procedure and Administrative Action."

Subject to a modest exception [4] applicable only to rule making proceedings initiated for the purpose of protecting the public health and safety or the common defense and security, § 51.100 prohibits the Commission from making and recording a decision on any action for which an environmental impact statement is required until 90 days after publication of a notice of availability of draft environmental impact statement or 30 days after publication of a notice of availability of a final environmental impact statement, whichever is later.

Section 51.101 prohibits the Commission from taking any action which might have an adverse environmental impact or limit the choice of reasonable alternatives concerning a proposed licensing or regulatory action for which either an environmental impact statement or an environmental assessment is required, until after a record of decision or a final finding of no significant impact has been issued. Section 51.101 also provides that similar actions taken by applicants and petitioners in those circumstances may be grounds for the denial of a license or petition. In the case of certain types of licensing actions,[5] § 51.101 provides that the prohibitions against commencement of construction in 10 CFR 30.33(a)(5), 40.32(e), 50.10(c), and 70.23(a)(7), will be used as benchmarks to determine whether particular actions by applicants or petitioners will, in fact, have an adverse environmental impact or limit the choice of reasonable alternatives.

Section 51.101(c) removes certain limited types of actions from the reach of these restrictions. Applicants for NRC licenses, permits, or other forms of permission may continue developing plans or designs necessary to support their applications. Subject to prior notice and consultation with the NRC staff, applicants may also continue to perform physical work necessary to support their applications or continue to perform any other physical work relating to the proposed action if the latter work has a de minimis adverse environmental impact.

Section 51.102 requires that a record of decision be prepared and specifies the NRC officials responsible for carrying out the task.

To accommodate the requirements of NRC's regulatory process, § 51.102 also provides that if an action is subject to a hearing under the regulations in Subpart G of 10 CFR Part 2, or if the action can only be taken by the Commissioners acting as a collegial body, the appropriate NRC staff director or his designee will prepare a proposed record of decision. The proposed record of decision may be modified as a result of Commission review and decision as appropriate to the nature and scope of the proceeding and will be issued as the record of decision by the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commissioners acting as a collegial body, as appropriate. Section 51.34 provides parallel procedures for the preparation and issuance of a final finding of no significant impact in similar circumstances.

Procedures governing the consideration of environmental impact statements in public hearings are also included under the heading "NEPA Procedure and Administrative Action" (§ 51.104—general procedures; § 51.105—procedures applicable in public hearings in proceedings for issuance of construction permits or licenses to manufacture production or utilization facilities).

Proposed requirements relating to availability and public notice of environmental documents are set out under the heading "Public Notice of and Access to Environmental Documents" (§§ 51.116–51.123). Proposed requirements relating to Commission comments on draft environmental impact statements prepared by other agencies are set out in § 51.124. Responsible officials for NRC NEPA compliance are indicated in § 51.125. Proposed Appendix A provides a format for environmental impact statements. Designed to eliminate duplication in the presentation of information and discussion of issues, the proposed format parallels that set out in 40 CFR 1502.10 of CEQ's NEPA regulations.

[4] Under this exception, the Commission may make and publish a decision on a final rule at the same time that the Environmental Protection Agency publishes the Federal Register notice of filing of the final environmental impact statement (§ 51.100(b)).

[5] The types of licensing actions described in 10 CFR 30.32(f), 40.31(f), 50.10(c) and 70.21(f).

Proposed Subpart A does not implement all the provisions of CEQ's regulations. As indicated in the Commission's letter of May 31, 1979 to CEQ, several provision of the CEQ regulations will require additional study before the Commission can prepare implementing regulations. A brief summary of these provisions and their relationship to the Commission's present regulatory practices follows. Comments and suggestions on these matters are invited and will be included in the Commission's study.

1. 40 CFR 1502.14(b) provides that the environmental impact statement "[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits." The rationale for the Commission's policy on consideration of alternative sites, to cite one example, proceeds from the premise that major adverse environmental impacts can normally be identified using reconnaissance-level information.[6] The added costs of requiring detailed site-specific investigations and analyses on all candidate sites normally would not be justified by the resultant marginal improvement in environmental protection.

2. 40 CFR 1502.22(a) requires an agency to obtain information relevant to adverse environmental impacts which is not known and which is essential to a reasoned choice among alternatives if the over-all costs are not exorbitant. This provision could have a significant impact in those circumstances where extensive information has been developed with respect to one alternative and information regarding other alternatives has not yet been developed. This provision could impact any NRC decision in this circumstance where the costs (in terms of both information-gathering cost and project delay costs) of obtaining the information needed for a reasoned choice among alternatives are large but fall short of being exorbitant.

3. 40 CFR 1502.22(b) requires an agency to perform a "worst case analysis" and indicate the probability or improbability of its occurrence whenever the agency is unable to obtain information relevant to adverse impacts important in making a reasoned choice among alternatives and the agency has decided, despite this uncertainty, to proceed with the action. This requirement could have a substantial impact on the length of time and resources required to complete NRC licensing reviews. The provision would also make it necessary to perform worst case analyses for both radiological and non-radiological impacts in situations where such analyses are not normally conducted. One example would be a situation involving the evaluation of reactor aquatic impacts where a case can be made for extensive long-term time-dependent studies.

Section 1502.22(b) could also have a substantial impact on NRC's regulatory activities if interpreted to require in-depth analysis of the consequences of a "worst case" accident in addition to an analysis of the likelihood that such an accident would occur. Under NRC's current risk analysis practices, the consequences of accidents whose likelihood of occurrence is remote are not given detailed consideration except in unusual cases. However, these practices are being reconsidered by the Commission, and this reconsideration may result in adoption of different practices with regard to "worst case" accidents at nuclear power reactors.

40 CFR 1508.18 includes within the definition of major Federal action, "the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action." It is unclear whether this provision would require NRC staff to prepare environmental impact statements for such actions as denials of petitions (e.g., petitions for rulemaking under 10 CFR 2.802) which claim significant on-going environmental harm. It is equally unclear whether preparation of an environmental assessment would be required when the denial of a petition is based on a finding that there are no significant on-going adverse environmental effects. Under present NRC practice, it is not customary to prepare environmental assessments in conncection with denials of petitions.

Categorical Exclusions

Section 51.22 sets out the procedures to be followed to establish categorical exclusions (§ 51.22(a)), describes the function of the categorical exclusion to exclude certain types of actions from environmental review requirements (§ 51.22(b)) and lists those categories of actions which the Commission has declared to be categorical exclusions (§ 51.22(c)). Section 51.22(b) also provides that in special circumstances, the Commission may prepare an environmental impact statement or an environmental assessment on an action covered by a categorical exclusion.

The Commission has identified sixteen categories of actions which meet the requirement for a categorical exclusion. A description of each of these categories, with the requisite finding, follows:

Category of Actions

1. Amendments to Parts 1, 2, 4, 7, 8, 9, 10, 14, 19, 21, 55, 140, 150 or 170 of this chapter.

Discussion and Finding

Except for Part 8, Interpretations, the regulations in the following parts relate to matters of Commission organization, administration and procedure.

Part 1 Statement of Organization and General Information
Part 2 Rules of Practice for Domestic Licensing Proceedings
Part 4 Nondiscrimination in Federally Assisted Commission Programs
Part 7 Advisory Committees
Part 8 Interpretations
Part 9 Public Records
Part 10 Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information
Part 14 Administrative Claims under Federal Tort Claims Act
Part 140 Financial Protection Requirements and Indemnity Agreements
Part 150 Exemptions and Continued Regulatory Authority in Agreement States under Section 274
Part 170 Fees for Facilities and Materials Licenses and Other Regulatory Services under the Atomic Energy Act of 1954, as amended.

The regulations in these parts serve the dual purpose of making needed information readily available to the public and providing procedures for the orderly conduct of Commission business. These regulations in and of themselves will not affect the volume of that business.

In some instances, the regulations implement Federal laws which prescribe specific procedures for the conduct of government business. These laws include the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (Pub. L. 93-579), the Government in the Sunshine Act (5 U.S.C. 552b), and the Federal Advisory Committee Act (86 Stat. 770).

In some instances, application of the regulations will have economic or social

[6] Reconnaissance-level information is any information or analyses that can be retrieved or generated without the performance of new, comprehensive site-specific investigations. Reconnaissance-level information includes relevant scientific literature, reports of government or private research agencies, consultation with experts, short-term field investigations, and analyses performed using such information. The amount of reconnaissance-level information required and the extent of analyses should be matched to (1) the importance and magnitude of the potential impact and (2) whether the decision is one of identifying a region of interest, identifying candidate sites, or selecting a proposed site.

consequences. Examples include: Part 140 which contains regulations implementing the provisions of the Price-Anderson Act relating to financial protection and indemnity agreements; Part 170 which prescribes the schedule of Commission fees; and Part 4 which contains regulations on nondiscrimination which implement the provisions of Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974.

Formal interpretations of the Commission's regulations authorized by the Commission and prepared by the General Counsel are codified in Part 8. Although these interpretations may address matters of substance as well as procedure, the issuance of a formal interpretation and its inclusion in Part 8 of the Commission's regulations is an action without environmental effect.

The regulations in the following parts impose requirements on licensees.

Part 19 Notices, Instructions, and Reports to Workers; Inspections
Part 21 Reporting of Defects and Noncompliance
Part 55 Operators' Licenses

The requirements in Parts 19 and 21 relate to such matters as inspections, reports, record-keeping and posting of documents and notices. Part 55 establishes procedures and criteria for the issuance of licenses to operators and senior operators of licensed facilities. These regulations include procedures for filing and requirements for approval of applications, including requirements relating to written examinations, operating tests, and medical examinations.

Although the regulations in Parts 19, 21 and 55 address matters of substance and have a social and economic effect, they do not have a significant effect on the environment.

Accordingly, for the reasons stated, the Commission finds that amendments to Parts 1, 2, 4, 7, 8, 9, 10, 14, 19, 21, 55, 140, 150, or 170 of its regulations (Category 1) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 1. as a categorical exclusion, and directs that Category 1. to be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

2. Amendments to the regulations in this chapter which are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations.

Discussion and Finding

Minor amendments of this type are sometimes needed to update, clarify or eliminate an ambiguity in an existing regulation. Since these amendments are usually editorial and do not change the substance of an existing regulation they can neither increase nor decrease any environmental impact which the existing regulation may have.

Accordingly, the Commission finds that amendments to its regulations which are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations (Category 2.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 2. as a categorical exclusion, and directs that Category 2. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

3. Amendments to Parts 20, 30, 31, 32, 33, 34, 35, 40, 50, 51, 70, 71, 73, 81, or 100 of this chapter which relate to (i) procedures for filing and reviewing applications for licenses or construction permits or other forms of permission or for amendments to or renewals of licenses or construction permits or other forms of permission; (ii) recordkeeping requirements; or (iii) reporting requirements.

Discussion and Finding

Although amendments of this type affect substantive parts of the Commission's regulations, the amendments themselves relate solely to matters of procedure. Requirements to keep records and make reports and regulations providing specific instructions as to where applications should be filed, how they should be signed and executed, the number of copies to be furnished, and the procedural steps which will be followed in connection with their review, do not have an effect on the environment. Like the amendments in Category 1., their function is to facilitate the orderly conduct of Commission business. Accordingly, the Commission finds that amendments of this type (Category 3.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 3. as a categorical exclusion, and directs that Category 3. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

4. Entrance into or amendment, suspension, or revocation of an agreement with a State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, providing for assumption by the State and discontinuance by the Commission of certain regulatory authority of the Commission.

Discussion and Finding

Section 274 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2021) provides a mechanism (a section 274b. Federal-State Agreement) which authorizes the Commission to relinquish and enables individual States to assume, as they become ready and willing to do so, certain defined areas of regulatory authority over source, byproduct and special nuclear material. In order to make sure that the health and safety of the public will continue to be adequately protected, section 274d. prescribes certain conditions which must be met before an agreement can be entered into.

"d. The Commission shall enter into an agreement under subsection b. of this section with any State if—

"(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

"(2) The Commission finds that the State program is in accordance with the requirements of subsection o.[1] and in all other respects compatible with the Commission's program for regulations of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement."

These requirements provide assurance that following the transfer of functions under the § 274b. agreement, the State will administer the existing regulatory program in a manner similar to the way in which it was previously administered by the NRC.

The statute essentially preserves the status quo as far as substantive regulatory standards and practices for control of radiation hazards are concerned. Thus the action of entering into a § 274b. agreement should not occasion any substantive change in the regulatory program for radiation hazards. As a further consequence it also follows that there is little or no change in the effect of that program on the human environment. In addition, except for uranium mill tailings, the Commission has no control over specific State licensing and enforcement actions after an agreement becomes effective. In this respect, the action is similar to the distribution of general revenue sharing funds among the States where there is

[1] Section 274o., which was added by Pub. L. 95-604 (92 Stat. 3037), contains certain requirements relating to the licensing and regulation of mill tailings.

no Federal agency control over subsequent use of such funds by the States. This type of funding assistance is not considered a major Federal action (40 CFR 1508.18(a).)

In order to implement the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, it will be necessary for the Commission and the twenty-five Agreement States to amend the provisions of the § 274b agreements now in force. The purpose of these amendments is to bind the States, in accordance with the provisions of the Act, to carry out their responsibilities with respect to the regulation of mill tailings in a manner which will not only provide adequate protection of the public health and safety but which will also protect the environment from hazards associated with those materials. Among other things, the States will be required to prepare detailed environmental analyses before they license activities which result in the production of mill tailings.

Implementation of the amended agreements, as intended by the Congress, will have a significant and beneficial effect upon the environment. To acknowledge this, however, does not change the fact that the formal action of amending an agreement, in and of itself, is not only without any environmental impact, but given the nature of the statutory mandate, which requires that the terms of the agreements conform to the requirements of the Act, is essentially ministerial.

Accordingly, the Commission finds that entrance into or amendment, suspension, or revocation of a Federal-State agreement under section 274b of the Atomic Energy Act of 1954, as amended, (Category 4.) comprises a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 4. as a categorical exclusion and directs that Category 4. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

5. Procurement of general equipment and supplies.

Discussion and Finding

Procurements of general equipment and supplies ensure that NRC personnel are able to efficiently perform their official responsibilities on a day to day basis. Although these procurements have an economic effect, they do not have a significant effect on the environment.

Accordingly, the Commission finds that procurements of general equipment and supplies (Category 5.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 5. as a categorical exclusion, and directs that Category 5. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

6. Procurement of technical assistance, confirmatory research and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation.

Discussion and Finding

These actions involve scientific and engineering studies, assessments and analyses in areas relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to regulation, licensing and inspection by the NRC. NRC technical assistance and research activities do not generate basic design data or develop new processes or construction procedures. The actions do not include confirmatory research programs which entail physical construction of plants and facilities.

Although these activities have an economic effect, no significant effect on the environment can be anticipated.

Accordingly, the Commission finds that procurement of technical assistance, confirmatory research and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation (Category 6.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 6. as a categorical exclusion, and directs that Category 6. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

7. Personnel actions.

Discussion and Finding

Personnel actions refer to administrative actions affecting NRC employees or potential employees, including labor union activities and the hiring, promotion and separation of personnel. Although these activities have a social and economic effect, they do not have a significant effect on the environment.

Accordingly, the Commission finds that personnel actions (Category 7.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 7. as a categorical exclusion, and directs that Category 7. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

8. Issuance, amendment, or renewal of operators' licenses pursuant to Part 55 of this chapter.

Discussion and Finding

Part 55 of the Commission's regulations prohibits persons from performing the functions of an operator or a senior operator at a licensed facility unless authorized to do so by a license issued by the Commission. Although issuance or denial of an operator's license may have a significant economic effect on the individual applicant, the action of the Commission in issuing, amending or renewing an operator's license in accordance with the procedures of 10 CFR Part 55 does not have an environmental effect. The environmental impact of the operation of a licensed facility by a licensed operator is fully considered in the environmental impact statement or environmental assessment prepared in connection with the licensing action authorizing operation of the facility. The formal action of certifying an operator does not authorize facility operation.

Accordingly, the Commission finds that issuance, amendment or renewal of operators' licenses pursuant to Part 55 of this chapter (Category 8.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 8. as a categorical exclusion, and directs that Category 8. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

9. Issuance of an amendment to a permit or license for a reactor pursuant to Part 50 of this chapter which changes a requirement with respect to installation or use of a facility component located within the restricted area, as defined in Part 20 of this chapter, or which changes an inspection or a surveillance requirement, provided that (i) the amendment does not involve any significant hazards consideration, (ii) there is no change in the types or amounts of any effluents that may be released offsite, and (iii) there is no associated increase in individual or cumulative occupational radiation exposure.

Discussion and Finding

Experience has indicated that amendments in this category either have no environmental impact or have an environmental impact that is insignificant. Changes which relate to

the installation or use of a facility component located within a restricted area and which do not involve significant hazards considerations, changes in offsite effluents, or increases in occupational doses do not result in offsite effects that could have a significant impact on the human environment. Associated effects, if any, would be minimal and would be confined to limited access areas on site. Experience has also shown that amendments that change an inspection or surveillance requirement are usually of a procedural nature. The purpose of these changes is to incorporate accepted improvements in the installation or use of facility components or in inspection and surveillance which will facilitate the conduct of the licensee's business and insure the adequacy and timeliness of information reported to the Commission. As a result, such amendments will not lead to significant environmental impacts on the human environment either individually or cumulatively.

Accordingly, the Commission finds that license amendments of this type (Category 9.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 9. as a categorical exclusion, and directs that Category 9. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

10. Issuance of an amendment to a permit or license pursuant to Parts 30, 40, 50, or 70 of this chapter which (i) changes insurance and/or indemnity requirements, or (ii) changes recordkeeping, reporting, or administrative procedures or requirements.

Discussion and Finding

Issuance of an amendment to a permit or license to change insurance and/or indemnity requirements or to change requirements relating to recordkeeping, reporting or other administrative procedures does not affect the scope or nature of the licensed activity. Althought changes in insurance and/or indemnity requirements affect the financial arrangements of licensees and have economic and social consequences, they do not alter the environmental impact of the licensed activities. Similarly, changes in recordkeeping and reporting requirements and other administrative procedures relating to the licensee's organization and management do not change the nature and the consequent environmental impact of the licensed activity. The function of these procedural and administrative changes is merely to facilitate the orderly conduct of the licensee's business and to insure that information needed by the Commission to perform its regulatory functions is readily available. Accordingly, the Commission finds that license amendments of this type (Category 10.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 10. as a categorical exclusion, and directs that Category 10. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

11. Issuance of amendments to licenses for fuel cycle plants and radioactive waste disposal sites as identified in §§ 51.20(b) and 51.21(b) of this subpart which are administrative, organizational, or procedural in nature, or which result in a change in process operations or equipment, provided that (i) there is no increase in the types of amounts of effluents that may be released offsite, (ii) there is no associated increase in individual or cumulative occupational radiation exposure, (iii) there is no significant construction impact, and (iv) there is no increase in the potential for or consequences from radiological accidents.

Discussion and Finding

Paragraph 51.21(b)(5) identifies amendments to licenses for fuel cycle plants and radioactive waste disposal sites that require preparation of an environmental assessment to evaluate potential impacts to the environment. However, there are other requests for amendments to these types of licenses that are administrative, organizational or procedural in nature or which involve changes in process operation and equipment which do not result in any adverse incremental impacts to the environment from the licensed activity. Implementation of these minor and routine types of changes do not alter the previously evaulated environmental impacts associated with the licensed operation, taking into account construction impacts, types and amounts of effluents released by the operation, occupational exposure of employees, or potential accidents, nor do these amendments affect the scope of the licensed activity.

Accordingly, the Commission finds that this class of amendments to licenses for fuel cycle plants and radioactive waste disposal sites (Category 11.) comprise a category of actions that do not individually or cumulatively have a significant effect on the human environment, designates Category 11. as a categorical exclusion, and directs that Category 11. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

12. Issuance of an amendment to a license pursuant to Parts 50 and 70 of this chapter relating solely to safeguards matters (i.e. protection against sabotage or loss or diversion of special nuclear material) or issuance of an approval of a safeguards plan submitted pursuant to Parts 50, 70, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts.

Discussion and Finding

Amendments and approval of this nature relate to the protection of nuclear materials against theft or diversion or to the protection of nuclear materials, facilities, and transportation activities against radiological sabotage. They are needed (i) to implement new safeguards regulations through incorporation of provisions into licenses and (ii) to permit modifications to licensees' safeguards programs established under existing requirements. With the exception of amendments involving significant construction, they are confined to (i) organizational and procedural matters, (ii) modifications to systems used for security and/or materials accountability, (iii) administrative changes, and (iv) review and approval of transportation routes pursuant to 10 CFR 73.37(a)(1). As such, the issuance of these amendments and approvals does not alter the environmental impacts of the licensed activity. Route approvals (item iv) for spent fuel shipments are not based upon case-specific analyses of the comparative risks of sabotage along alternate routes because such risks are not considered serious regardless of the chosen route, provided the shipper adheres to specific requirements delineated in 10 CFR 73.37 (which include provisions for additional protection measures in instances where heavily populated areas cannot be avoided). Nevertheless, the NRC considers it prudent to require such shipments to avoid, where practicable, heavily populated areas in order to reduce this risk to as low as reasonably achievable. With regard to radiological and nonradiological risks attributable to normal transportation and accidents, the Final Environmental Statement on the Transportation of Radioactive Materials by Air and Other Modes (NUREG-0170, Dec. 1977) concludes that such risks are small and does not support the need for changes to the existing NRC regulations which permit unrestricted use of

alternate routes form the standpoint of safety-related impacts. This statement considered releases in extreme-population-density (urban) areas in the course of developing these risk estimates and efforts are underway to further refine the present assessment in this regard. The results obtained to date regarding the further study of transportation in urban environs (SAND-77-1927) do not conflict with the previous risk estimates. The number of such approvals is expected to be approximately twenty per year, involving a total of approximately 200 shipments annually. Thus, the nonradiological environmental impacts associated with routine traffic (as opposed to impacts associated with accidents) resulting from NRC route approvals is insignificant.

Accordingly, the Commission finds that license amendments and approvals of this type (Category 12.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 12. as a categorical exclusion, and directs that Category 12. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

13. Approval of package designs for the delivery of licensed materials to a carrier for transportation.

Discussion and Finding

Certificates of compliance approving packages for use in the transportation of radioactive materials do not authorize the actual transportation of those materials. The certificates are issued upon demonstration that the package designs meet applicable performance standards contained in Part 71 of the Commission's regulations. Information regarding prospective routes or points of origin or destination necessary for an environmental analysis of actual transportation is neither available nor germane to package design certification. For this reason, as a matter of policy, the Commission will address the impact of transportation of radioactive materials in the course of environmental evaluations of the specifically-licensed activities necessitating transportation of nuclear materials. Since certificates of compliance merely permit licensees to use the approved package to transfer material to a carrier, on site, for transportation to an authorized receiver and do not authorize a particular transportation movement, there is no environmental impact associated with the action of issuing these approvals.

Accordingly, the Commission finds that approvals of package designs for the delivery of licensed materials to a carrier for transportation (Category 13.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 13. as a categorical exclusion, and directs that Category 13. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

14. Issuance, amendment, or renewal of the following types of materials licenses issued pursuant to 10 CFR Parts 30, 40, or 70:

(i) Distribution of devices and products containing radioactive material to general licensees and persons exempt from licensing

(ii) Medical licenses

(iii) Nuclear pharmacies

(iv) Teletherapy licenses

(v) Licenses to academic institutions for educational purposes

(vi) Industrial radiography

(vii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities

(viii) Irradiators (dry storage—self-contained)

(ix) Irradiators (wet storage—panoramic)

(x) Gauging devices, analytical instruments, and other devices utilizing sealed sources

(xi) Source material licenses for fabrication of the products specified in 10 CFR § 40.13, fabrication of military munitions, and laboratory use for research and development

(xii) Well logging

(xiii) Research and development licenses involving less than ten curies of radioactive material

Discussion and Findings

Previously, the Commission's attention to environmental review requirements for materials licensing actions has focused largely on activities in the uranium fuel cycle. In this proposed revision to 10 CFR Part 51, other types of licenses which involve processing of radioactive materials for distribution to other licensees, nuclear laundries, testing of depleted uranium military munitions, and processing of source material are accorded additional attention. However, there remain additional types of licensing actions which have not been the subject of any in-depth environmental review by NRC or its predecessor agency, the Atomic Energy Commission. On the basis of over thirty years experience in licensing and inspection of such materials licensees, the NRC believes that these activities, individually or cumulatively, have not resulted in any significant impact on the environment. Absolute confirmation that none of these licensing actions would ever have any significant environmental impact could be obtained only by in-depth reviews of each of thousands of licensing actions each year. NRC does not believe that the huge expenditure of resources that would be required would be justified and believes that the environment would be better protected if NRC's resources were devoted to the environmental analyses called for under §§ 51.20(b) and 51.21(b) of this subpart for the types of actions which experience suggests have real potential to cause significant environmental problems. As noted above, the proposed regulations have been drafted so that NRC will retain flexibility to do an environmental impact statement or an enviromental assessment, as appropriate, for any licensing actions covered by a categorical exclusion should special circumstances come to its attention that would warrant such action.

(i) Distribution of devices and products containing radioactive material to general licensees and persons exempt from licensing

These licenses authorize persons to distribute devices such as density gauges, level gauges, and other gauging devices to persons who are general licensees and to distribute products containing radioactive material such as watches, election tubes, or smoke detectors to persons who are exempt from licensing. These licenses for distribution do not authorize processing or use of radioactive materials. There are no effluent releases or personnel exposures associated with the licensed activities. These distribution licenses presuppose ultimate use or possession of the radioactive materials under a general license or exemption established by regulation, which regulation, under § 51.21(b)(12) will require an environmental assessment addressing the environmental impacts of the generally licensed or exempted activities of the recipients of the materials. The devices and products that may be distributed pursuant to these licenses must meet the specific standards and requirements in NRC regulations. At the time of issuance of the regulations authorizing distribution, the determination was made that subsequent exempt or generally licensed use or possession of the materials would not constitute a risk to the public health and safety.

(ii) Medical licenses

NRC issues licenses to hospitals and to physicians authorizing human use of byproduct material. These licensed

activities may include receipt of radioactive material, preparation of radiopharmaceuticals from Mo–99/Tc–99m generators and reagent kits, administration of sealed radiopharmaceuticals to patients for diagnostic or therapeutic purposes, the use of sealed sources for brachytherapy (i.e., radiation delivered from a short distance) and the disposal of the authorized materials by holding for decay or by transfer to a licensed burial ground. The only environmental impact of these licensed activities is insignificant. The only environmental impacts would be occupational exposures (averaging less than 10% of the applicable limits) and releases to air and water or to sanitary sewerage (through patient excreta) which are of small quantity or if of significant quantity, are short-lived.

(iii) Nuclear pharmacies

Nuclear pharmacies purchase prepared radiopharmaceuticals, radioisotope generators and reagent kits from manufacturers. They elute the generators and distribute the eluate as a prepared radiopharmaceutical or compound the eluate with reagent kits to make prepared radiopharmaceuticals. They dispense and distribute prepared radiopharmaceuticals to medical licensees in unit dose form. If the services of a nuclear pharmacy are not used, the medical licensee performs these functions in his own nuclear medicine laboratory. Due to the short half-life of medically useful isotopes, the radioactive wastes that nuclear pharmacies generate may be decayed to background levels in storage. Releases in effluents may be conservatively estimated at 5% of maximum permissible values. Due to the soft gamma emission of most medically useful isotopes and the use of personnel shielding devices, exposure to personnel may be conservatively estimated at 25% of the maximum permissible dose.

(iv) Teletherapy licenses

NRC issues licenses to hospitals and to physicians authorizing the use of cobalt–60 or cesium–137 sealed sources for teletherapy (i.e. radiation therapy at a distance from the patient) treatment of patients. The sealed sources containing on the order of 6,000 curies of cobalt–60 or 2,000 curies of cesium–137 are doubly encapsulated and their design has been approved by NRC or an Agreement State. The sources are used in a teletherapy unit, a device that provides collimation and shielding and whose design has been approved by NRC or an Agreement State. Teletherapy sources are located in facilities that have been reviewed for compliance with NRC regulations before a license is issued. Personnel exposures at teletherapy licensees' facilities are, on the average, about 5% of the applicable limits. There are no releases of licensed materials to air or water from licensed teletherapy activities.

(v) Licenses to academic institutions for educational purposes

NRC issues licenses to academic institutions for educational purposes. The licensed activities may include receipt of radioactive material, classroom demonstrations by qualified instructors, supervised laboratory research by students, the use of plutonium-beryllium neutron sources, the use of source material in subcritical assemblies, and the disposal of the authorized material by holding for decay or by transfer to authorized recipients. An average academic institution releases less than 5% of the maximum permissible concentration listed in 10 CFR Part 20 for both air and water and the personnel exposure for radiation workers is less than 5% of the limits specified in 10 CFR 20.202.

(vi) Industrial radiography

Gamma radiation sources (primarily iridium–192 and cobalt–60) are used for non-destructive testing of materials throughout the United States. The sources used are metallic and are encapsulated in a stainless steel capsule. Therefore, during ordinary use it is not expected that there will be releases of radioactive material to the environment. The radiation exposure during routine use of sources in industrial radiography is well within NRC limits for occupational exposure. The average exposure per individual radiographer is less than 0.4 rem per year, which is less than 1% of the permissible exposure.

(vii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities

These licenses provide for the acceptance of prepackaged radioactive wastes from licensees that generate the wastes. Persons engaged in these operations may accept only packages that meet all governmental standards and regulations for transport of radioactive materials. Licensees engaged in the acceptance of prepackaged wastes are not permitted to open the packages. Therefore, there are no effluent releases. Since all packages must meet the established governmental standards, radiation exposures to personnel are a small fraction of the exposures permitted under NRC regulations. The activities engaged in by such licensees are analogous to those engaged in by common carriers, which are exempt from licensing requirements.

(viii) Irradiators (dry storage—self-contained)

These devices contain from a few millicuries of licensed material (usually cesium-137 or cobalt-60) to several hundred curies. The sealed sources are never exposed during normal use—the sources remain shielded in a self-contained apparatus at all times. Materials for irradiation are placed in chambers which are rotated in such a manner that the materials are exposed to the sealed sources but the operator is shielded from the radiation beam at all times. Personnel exposures during use of these devices are less than 5% of the limits in 10 CFR Part 20. There are no effluent releases.

(ix) Irraditors (wet storage—panoramic)

These devices usually contain from a few hundred curies to megacuries of sealed source materials, usually cobalt-60. The facility surrounding the water pool is equipped with interlock warning devices (warning lights and horns) and radiation alarms. Materials for exposure are either lowered into the pool or placed at specified locations above the pool and the sealed sources are then raised to the exposed position. Personnel are not present when the source is in the exposed position. Should personnel attempt to open an entrance door during source exposures, warning lights and horns are activated at the entrance doors and the sealed sources automatically return to the shielded position.

Personnel exposures are less than 5% of 10 CFR Part 20 limits. There are no effluent releases resulting from operation of such irradiators.

(x) Gauging devices, analytical instruments, and other devices utilizing sealed sources

The NRC issues licenses for possession and use of gauging devices to measure thickness, density, and level of materials. These devices contain sealed sources, usually cesium-137 and strontium-90, which are encapsulated so that there is no leakage during use. The devices provide shielding such that radiation levels external to the devices are on the order of a few milliroentgen per hour. Other devices include gas chromatographs with millicurie quantities of nickel-63 or hydrogen-3, analytical devices such as X-ray fluorescence analyzer with sealed sources containing a variety of radioisotopes, instrument calibration devices containing millicurie to curie quantities of cesium-137 and cobalt-60, and soil-density gauges which contain millicurie quantities of cesium-137 and americium-241 ventron sources.

Personnel exposure from use of these devices is less than 5% of the limits in 10 CFR Part 20. There are no effluents associated with the use of devices containing sealed sources.

(xi) Source material licenses for fabrication of the products specified in 10 CFR 40.13, fabrication of military munitions, and laboratory use for research and development

These licenses for possession and use of source material are for fabrication of products specified in 10 CFR 40.13, including such products as welding rods, gas mantles, airplane counterweights, shielding for medical therapy devices, devices utilizing sealed sources of radioactive materials, and shipping containers. Other such licenses involve fabrication of military munitions and laboratory use of source material for research and development. The quantities involved in fabrication of products range from a few kilograms in welding rods and gas mantles to several hundred kilograms for shielding and counterweights. Most products are made from thorium and depleted uranium which have low specific activity. The source materials are used for non-nuclear properties. Fabrication operations which involve grinding, shaping, and milling are carried out under carefully controlled conditions including ventilation, personnel protective clothing, and monitoring for contamination and effluent releases. Laboratory activities involve processing of gram to low kilogram quantities of source material. Effluent releases resulting from use of source material are 10% or less and personnel exposure are 5% of the limits in NRC regulations.

(xii) Well logging

Radioactive materials are used extensively in oil and gas well drilling operations as analytical tools for determining composition of strata and tracing oil and gas flow. For tracer work, millicurie quantities of gamma-emitting radioisotopes such as iodine-131 and iridium-192 are injected directly into the wells. Sealed sources are either 2–3 curies of cobalt-60 or cesium-137 or 1–3 curies of americium-beryllium or plutonium-beryllium.

Both gamma mapping and neutron mapping are performed. The tracer materials are in liquid form and their use does not result in effluent releases to the environment. There are no effluent releases as a result of use of sealed sources. Personnel exposures are 0.1 or less of the limits provided for in NRC regulations.

Occasionally, a sealed source may be lost in a well. Such losses occur at depths of thousands of feet. Loss of a source must be reported to the NRC. If the source is irretrievable as determined by NRC, it must be immobilized by being cemented in place, the well must be placarded to note the presence of the source down-hole, and a notation must be placed in public records. The loss of sources does not result in any release of radioactive material to the environment.

(xiii) Research and development licenses involving less than ten curies of radioactive material

These licenses involve less than ten curies of source, byproduct or special nuclear material for research and development involving product development, animal tracer studies, tracer studies of materials and compounds, and basic research. A typical research and development facility is designed to minimize release of effluents to the environment. Remote handling equipment, personnel protective clothing, and shielding materials are standard equipment to minimize personnel exposures. A day-to-day radiation safety program provides for constant monitoring of personnel exposures, contamination levels, radiation levels, and effluent releases. Personnel exposures and effluent releases are less than 10 per cent of the limits of 10 CFR Part 20.

Accordingly, the Commission finds that issuance, amendment, and renewal of licenses described above (Category 14.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 14. as a categorical exclusion, and directs that Category 14. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

15. Issuance, amendment or renewal of licenses for import of nuclear facilities and materials pursuant to Part 110 of this chapter, except for import of spent power reactor fuel.

Discussion and Finding

Import licenses issued pursuant to 10 CFR Part 110 merely authorize import into the United States and do not authorize any person to possess, use, or transfer the facilities or materials within the United States. Also, import licenses do not authorize transportation of imported facilities and materials within the United States. An exception has been made in the categorical exclusion for imports of spent power reactor fuel, where impact studies are continuing. In the Final Environmental Impact Statement on the Transportation of Radioactive Materials by Air and Other Modes (NUREG–0170, Dec. 1977) the NRC staff examined the environmental impact of the transportation of imports from the time a shipment first arrives in the United States until it reaches its ultimate destination and concluded that the environmental impact of such transportation was negligible.

Accordingly, the Commission finds that issuance, amendment or renewal of licenses for import of nuclear facilities and materials pursuant to Part 110 of this chapter, except for import of spent power reactor fuel, (Category 15.) comprises a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 15. as a categorical exclusion and directs that Category 15. be listed in § 51.22(c) as a categorical exclusion.

Category of Actions

16. Issuance or amendment of guides for the implementation of regulations in this chapter, and issuance or amendment of other informational and procedural documents that do not impose any legal requirements.

Discussion and Finding

Regulatory guides are issued (and sometimes revised) to explain the NRC staff's position regarding an acceptable method of implementation of regulations. Compliance with their provisions is not required. Since they do not modify existing regulations and are not enforceable by themselves they can neither increase nor decrease any environmental impact which an existing regulation may have. Other informational and procedural documents covered by this exclusion have no environmental impact for the same reason.

Accordingly, the Commission finds that issuance or amendment of guides for the implementation of regulations in this chapter and issuance or revision of other similar informational and procedural documents (Category 16.) comprise a category of actions which do not individually or cumulatively have a significant effect on the human environment, designates Category 16. as a categorical exclusion, and directs that Category 16. be listed in § 51.22(c) as a categorical exclusion.

The Commission has received two letters of comment on these proposed regulations from the Council on Environmental Quality, dated September 26 and October 29, 1979. These letters, which are reproduced in Appendix B to this notice, include some critical comments that the Commission will give further consideration to before issuing a final rule.

It should be noted that the Commission estimates that its own incremental costs associated with the

Part 51 revision will be 12.5 man-years and $1,575,000 in external costs for Fiscal Year 1980, and 16.5 man-years and $2,600,000 in external costs for Fiscal Year 1981. Without the categorical exclusions, these costs would be about tripled.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Policy Act of 1969, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following proposed revision of 10 CFR Part 51 and of related proposed conforming amendments to 10 CFR Parts 2, 30, 40, 50, 70 and 110 is contemplated:

1. 10 CFR Part 51 is revised to read as follows:

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

Sec.

Authority: Sec. 161b, i, and o, Pub. L. 83–703, 68 Stat. 948, 949, and 950, as amended (42 U.S.C. 2201(b), (i), and (o)); secs. 201, 202, Pub. L. 93–438, 88 Stat. 1242–1244, as amended (42 U.S.C. 5841, 5842). Subpart A also issued under secs. 102(2), 104 and 105, Pub. L. 91–190, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Title II, Pub. L. 95–604, 92 Stat. 3033–3041. Section 51.20 also issued under sec. 3, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077(d)). Section 51.22 also issued under sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended by Pub. L. 95–604, 92 Stat. 3037 (42 U.S.C. 2021).

§ 51.1 Scope.

This part contains environmental protection regulations applicable to NRC's domestic licensing and related regulatory functions. These regulations do not apply to export licensing matters within the scope of Part 110 of this chapter or to any environmental effects which NRC's licensing and related regulatory functions may have upon the environment of foreign nations or the global commons. Subject to these limitations, the regulations in this part implement:

(a) Section 102(2) of the National Environmental Policy Act of 1969, as amended.

(b) [Reserved]

§ 51.2 Subparts.

(a) The regulations in Subpart A of this part implement section 102(2) of the National Environmental Policy Act of 1969, as amended.

(b) [Reserved]

§ 51.3 Resolution of conflict.

In any conflict between a general rule in Subpart A of this part and a special rule in another subpart of this part or another part of this chapter applicable to a particular type of proceeding, the special rule governs.

§ 51.4 Definitions.

(a) As used in this part:

(1) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(2) "Commission" means the Nuclear Regulatory Commission or its authorized representatives.

(3) "NRC" means the Nuclear Regulatory Commission, the agency established by Title II of the Energy Reorganization Act of 1974, as amended.

(4) "NRC staff" means any NRC officer or employee or his/her authorized representative, except a Commissioner, a member of a Commissioner's immediate staff, an Atomic Safety and Licensing Board, an Atomic Safety and Licensing Appeal Board, a presiding officer, or an administrative law judge.

(5) "NRC staff director" means:

(i) Executive Director for Operations;

(ii) Director, Office of Nuclear Reactor Regulation;

(iii) Director, Office of Nuclear Material Safety and Safeguards;

(iv) Director, Office of Standards Development;

(v) Director, Office of Nuclear Regulatory Research;

(vi) Director, Office of Inspection and Enforcement;

(vii) Director, Office of State Programs; or

(viii) Executive Legal Director.

§ 51.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 51.6 Specific exemptions

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and are otherwise in the public interest.

Subpart A—National Environmental Policy Act—Regulations Implementing Section 102(2)

§ 51.10 Purpose and scope of subpart; application of regulations of Council on Environmental Quality.

(a) The National Environmental Policy Act of 1969, as amended (NEPA) directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in NEPA, and (2) all agencies of the Federal Government shall comply with the procedures in section 102(2) of NEPA except where compliance would be inconsistent with other statutory requirements. The regulations in this subpart implement section 102(2) of NEPA in a manner which is consistent with the NRC's domestic licensing and related regulatory authority under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and the Uranium Mill Tailings Radiation Control Act of 1978, and which reflects the Commission's announced policy to take account voluntarily, subject to certain conditions, of the regulations of the Council on Environmental Quality published November 29, 1978 (43 FR 55978–56007). This subpart does not apply to export licensing matters within the scope of part 110 of this chapter nor does it apply to any environmental effects which NRC's licensing and related regulatory functions may have upon the environment of foreign nations or the global commons.

(b) The Commission will devote further study to 40 CFR 1502.14(b), § 1502.22 (a) and (b), and the portion of § 1508.18 which includes within the definition of major Federal action "the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action * * *" before deciding to what extent these provisions may or should mandate a change in present Commission policy. The Commission welcomes and will include in its further study any comments on this matter. The Commission will also:

(1) Examine any future interpretation or change to the Council's NEPA regulations;

(2) Follow the provisions of 40 CFR 1501.5 and 1501.6 relating to lead agencies and cooperating agencies, except that the Commission reserves the right to prepare an independent environmental impact statement whenever the Commission has regulatory jurisdiction over an activity, even though the Commission has not been designated as lead agency for preparation of the statement; and

(3) Reserve the right to make a final decision on any matter within the Commission's regulatory authority even though another agency has made a predecisional referral of an NRC action to the Council under the procedures of 40 CFR Part 1504.

(c) This subpart does not address any limitations on the NRC's authority and responsibility pursuant to the National Environmental Policy Act of 1969, as amended, imposed by the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500, 86 Stat. 816 et seq. (33 U.S.C. 1251 et seq.). This matter is addressed in part in a "Policy Statement on Implementation of Section 511 of the

Federal Water Pollution Control Act (FWPCA)" attached as Appendix A to the "Second Memorandum of Understanding Regarding Implementation of Certain NRC and EPA Responsibilities" published in the Federal Register on December 31, 1975 (40 FR 60115) and effective January 30, 1976.

(d) Commission actions initiating or relating to administrative or judicial civil or criminal enforcement actions or proceedings are not subject to section 102(2) of NEPA. These actions include issuance of notices and orders pursuant to Subpart B of Part 2 of this chapter, and matters covered by Part 160 of this chapter.

§ 51.11 Relationship to other subparts. [Reserved]

§ 51.12 Application of subpart to proceedings.

(a) Except as otherwise provided in this section, the regulations in this subpart shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before [Effective date of NRC regs to be inserted.]

(b) No environmental document completed on or before [insert effective date of NRC regs] need by redone and no notice of intent to prepare or notice of availability of an environmental document published on or before [insert effective date of NRC regs] need be republished by reason of these regulations.

(c) The regulations in this subpart are not applicable to any supplement to a draft environmental impact statement, any final environmental impact statement or any supplement to a final environmental impact statement filed with the Environmental Protection Agency on or after July 30, 1979, if the draft environmental impact statement on the action to which the document relates was filed with the Environmental Protection Agency on or before July 29, 1979.

§ 51.13 Emergencies.

Whenever emergency circumstances make it necessary, the Commission may take an action with significant environmental impact without observing the provisions of these regulations. This exemption only applies to actions necessary to control the immediate impacts of the emergency. When an emergency action covered by this section is taken, the Commission will consult with the Council concerning appropriate alternative NEPA arrangements.

§ 51.14 Definitions.

(a) As used in this subpart:

(1) "Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect in accordance with procedures set out in § 51.22, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

(2) "Cooperating Agency" means any Federal agency other than the NRC which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. By agreement with the Commission, a State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may become a cooperating agency.

(3) "Council" means the Council on Environmental Quality established by Title II of NEPA.

(4) "Environmental Assessment" means a concise public document for which the Commission is responsible that serves to:

(i) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(ii) Aid the Commission's compliance with NEPA when no environmental impact statement is necessary.

(iii) Facilitate preparation of an environmental impact statement when one is necessary.

(5) "Environmental document" includes the documents specified in § 51.14(a)(4) (environmental assessment), § 51.14(a)(6) (environmental impact statement), § 51.14(a)(8) (finding of no significant impact), § 51.14(a)(7) (environmental report) and any supplements to or comments upon those documents, and § 51.14(a)(10) (notice of intent).

(6) "Environmental Impact Statement" means a detailed written statement as required by section 102(2)(C) of NEPA.

(7) "Environmental report" means a document submitted to the Commission by an applicant for a permit, license, or other form of permission, or an amendment to or renewal of a permit, license or other form of permission, or by a petitioner for rulemaking, in order to aid the Commission in complying with section 102(2) of NEPA.

(8) "Finding of No Significant Impact" means a concise public document for which the Commission is responsible that briefly states the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which therefore an environmental impact statement will not be prepared.

(9) "NEPA" means the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 83 Stat. 852, 856, as amended by Pub. L. 94-83, 89 Stat. 424, 42 U.S.C. 4321, et seq.).

(10) "Notice of Intent" means a notice that an environmental impact statement will be prepared and considered.

(b) The definitions in 40 CFR 1508.3, 1508.7, 1508.8, 1508.14, 1508.15. 1508.16, 1508.17, 1508.18 (except insofar as actions are defined to include failures to act), 1508.20, 1508.23, 1508.25, 1508.26, and 1508.27, will also be used in implementing section 102(2) of NEPA.

§ 51.15 Time schedules.

Consistent with the purposes of NEPA, the Administrative Procedure Act, §§ 51.100 and 51.101, and with other essential considerations of national policy:

(a) The appropriate NRC staff director or his designee may, and upon the request of an applicant for a proposed action or a petitioner for rulemaking shall, establish a time schedule for all or any constituent part of the NRC staff NEPA process. To the maximum extent practicable, the NRC staff will conduct its NEPA review in accordance with any time schedule established under this section. Whenever the NRC staff is unable to meet a time schedule established at an applicant's or petitioner's request, the appropriate NRC staff director or his designee will inform the applicant or petitioner in writing of the reason for the delay.

(b) The presiding officer, the Atomic Safety and Licensing Appeal Board or the Commissioners acting as a collegial body may establish a time schedule for all or any part of its actions pursuant to Subpart G of Part 2 of this chapter.

Preliminary Procedures

Classification of Licensing and Regulatory Actions

§ 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.

(a) Licensing and regulatory actions requiring an environmental impact statement shall meet at least one of the following criteria:

(1) The proposed action is a major Federal action significantly affecting the quality of the human environment.

(2) The proposed action involves a matter which the Commission, in the

exercise of its discretion, has determined should be covered by an environmental impact statement.

(b) The following types of actions require an environmental impact statement or a supplement to an environmental impact statement:

(1) Issuance of a permit to construct a nuclear power reactor, testing facility or fuel reprocessing plant pursuant to Part 50 of this chapter.

(2) Issuance of a full power or design capacity license to operate a nuclear power reactor, testing facility, or fuel reprocessing plant pursuant to Part 50 of this chapter.

(3) Issuance of a permit to construct or a design capacity license to operate an isotopic enrichment plant pursuant to § 50.22 of this chapter.

(4) Conversion of a provisional operating license for a nuclear power reactor, testing facility or fuel reprocessing plant to a full term or design capacity license pursuant to Part 50 of this chapter if a final environmental impact statement covering full term or design capacity operation has not been previously prepared.

(5) Issuance of a license to manufacture pursuant to Appendix M of Part 50 of this chapter.

(6) Issuance of a license to possess and use special nuclear material for processing, fuel fabrication, scrap recovery, or conversion of uranium hexafluoride pursuant to Part 70 of this chapter.

(7) Issuance of a license to possess and use source material for uranium milling or production of uranium hexafluoride pursuant to part 40 of this chapter.

(8) Issuance of a license pursuant to Parts 30 and 70 of this chapter authorizing the receipt and possession for purpose of storage of spent commerical reactor fuel at a site not occupied by a nuclear power reactor.

(9) Issuance of an authorization to construct a repository for the storage or disposal of high-level radioactive waste.

(10) Issuance of a license to receive and possess high-level radioactive waste in a repository for the purpose of storage or disposal.

(11) Amendment of license to authorize decommissioning of a repository which has been used for the storage or disposal of high-level radioactive waste.

(12) Issuance of a license authorizing commercial low-level radioactive waste disposal pursuant to Parts 30, 40, and/or 70 of this chapter.

(13) Any other action which the Commission determines is a major Commission action significantly affecting the quality of the human environment. As provided in § 51.22(b), the Commission may, in special circumstances, prepare an enironmental impact statement on an action covered by a categorical exclusion.

§ 51.21 Criteria for and identification of licensing and regulatory actions requiring environmental assessments.

(a) Licensing and regulatory actions not the subject of an environmental impact statement (§ 51.20) or a categorical exclusion (§ 51.22) require an environmental assessment. As provided in § 51.22(b), the Commission may, in special circumstances, also prepare an environmental assessment on an action covered by a categorical exclusion.

(b) The types of actions that require an environmental assessment under the criterion in paragraph (a) of this section include, but are not limited to, the following:

(1) Issuance of a permit to construct, or a full power or design capacity license to operate, a production or utilization facility other than a nuclear power reactor, testing facility, fuel reprocessing plant, or isotopic enrichment plant of the type specified in § 51.20.

(2) Issuance of an amendment to a construction permit or full power or design capacity operating license for a nuclear power reactor, testing facility, fuel reprocessing plant, isotopic enrichment plant licensed pursuant to § 50.22 of this chapter or to a license to manufacture that would authorize or result in: (i) A significant expansion of a site; (ii) a significant change in the types of effluents; (iii) a significant increase in the amounts of effluents; (iv) a significant increase in occupational exposures; (v) a significant increase in the potential for accidental releases; (vi) a significant increase in the authorized power level; or (vii) a significant increase in spent fuel storage capacity.

(3) Issuance of a license to operate a nuclear power reactor, testing facility, fuel reprocessing plant or isotopic enrichment plant at less than full power or at less than the design capacity.

(4) Issuance of a license pursuant to Parts 30 and 70 of this chapter authorizing the receipt and possession for purpose of storage of spent commercial reactor fuel at an installation on the site of but separate from a nuclear power reactor.

(5) Issuance of an amendment that would authorize or result in (i) a significant expansion of a site, (ii) a significant change in the types of effluents, (iii) a significant increase in the amounts of effluents, (iv) a significant increase in occupational exposures, (v) a signficant increase in the potential for accidental releases, or (vi) a significant increase in spent fuel storage capacity, in a license for:

(A) Possession and use of special nuclear material for processing, fuel fabrication, scrap recovery, or conversion of uranium hexafluoride pursuant to Part 70 of this chapter.

(B) Possession and use of source material for uranium milling or production of uranium hexafluoride purusant to Part 40 of this chapter.

(C) Receipt and possession of spent commercial reactor fuel at any site for purpose of storage pursuant to Parts 30 and 70 of this chapter.

(D) Receipt and possession of high-level radioactive waste in a repository for the purpose of storage or disposal.

(E) Commercial low-level radioactive waste disposal pursuant to Parts 30, 40, and/or 70 of this chapter.

(6) Renewal of licenses to conduct activities listed in paragraph (b)(5) of this section.

(7) Amendment of a license to authorize backfilling of a repository which has been used for the storage or disposal of high-level radioactive waste.

(8) License amendments or orders authorizing the dismantling or decommissioning of nuclear power reactors, testing facilities, fuel reprocessing plants and isotopic enrichment plants.

(9) Termination of a license for the possession and use of source material for unranium milling.

(10) Issuance of licenses pursuant to Parts 30, 40 or 70 of this chapter (i) for nuclear laundries, (ii) authorizing processing of byproduct, source and special nuclear materials for distribution to other licensees, (iii) authorizing processing of source material for extraction of rare earth and other metals,[8] or (iv) testing of depleted uranium military munitions.

(11) Substantive and significant amendments from the standpoint of environmental impact of Parts 20, 30, 31, 32, 33, 34, 35, 40, 50, 51, 70, 71, 73, 81, or 100 of this chapter.

(12) Amendments of Parts 30, 40 or 70 of this chapter concerning the exemption from licensing and regulatory requirements of or authorizing general licenses for any equipment, device, commodity or other product containing byproduct material, source material or special nuclear material.

[8] Except for uranium milling which is specifically identified in §§ 51.20(b)(7) and 51.21(b)(5)(D).

§ 51.22 Criterion for and identification of licensing and regulatory actions eligible for categorical exclusion.

(a) Licensing and regulatory actions eligible for categorical exclusion shall meet the following criterion: The proposed action belongs to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment.

(b) Except in special circumstances as determined by the Commission, upon its own initiative or upon request by any interested person, an environmental assessment or an environmental impact statement is not required for any action within a category of actions included in the list of categorical exclusions set out in paragraph (c) of this section. Special circumstances include the circumstance where the proposed action involves unresolved conflicts concerning alternative uses of available resources within the meaning of section 102(2)(E) of NEPA.

(c) The following categories of actions are categorical exclusions:

(1) Amendments to Parts 1, 2, 4, 7, 8, 9, 10, 14, 19, 21, 55, 140, 150, or 170 of this chapter.

(2) Amendments to the regulations in this chapter which are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations.

(3) Amendments to Parts 20, 30, 31, 32, 33, 34, 35, 40, 50, 51, 70, 71, 73, 81, or 100 of this chapter which relate to (i) procedures for filing and reviewing applications for licenses or construction permits or other forms of permission or for amendments to or renewals of licenses or construction permits or other forms of permission; (ii) recordkeeping requirements; or (iii) reporting requirements.

(4) Entrance into or amendment, suspension, or revocation of an agreement with a State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, providing for assumption by the State and discontinuance by the Commission of certain regulatory authority of the Commission.

(5) Procurement of general equipment and supplies.

(6) Procurement of technical assistance, confirmatory research, and personal services relating to the safe operation and protection of commercial reactors, other facilities, and materials subject to NRC licensing and regulation.

(7) Personnel actions.

(8) Issuance, amendment, or renewal of operators' licenses pursuant to Part 55 of this chapter.

(9) Issuance of an amendment to a permit or license for a reactor pursuant to Part 50 of this chapter, which changes a requirement with respect to installation or use of a facility component located within the restricted area, as defined in Part 20 of this chapter, or which changes an inspection or a surveillance requirement: *Provided,* That (i) the amendment does not involve any significant hazards consideration, (ii) there is no change in the types or amounts of any effluents that may be released offsite, and (iii) there is no associated increase in individual or cumulative occupational radiation exposure.

(10) Issuance of an amendment to a permit or license pursuant to Parts 30, 40, 50, or 70 of this chapter which (i) changes insurance and/or indemnity requirements, or (ii) changes recordkeeping, reporting, or administrative procedures or requirements.

(11) Issuance of amendments to licenses for fuel cycle plants and radioactive waste disposal sites as identified in §§ 51.20(b) or 51.21(b) which are administrative, organizational, or procedural in nature, or which result in a change in process operations or equipment: *Provided,* That (i) there is no increase in the types or amounts of effluents that may be released offsite, (ii) there is no associated increase in individual or cumulative occupational radiation exposure, (iii) there is no significant construction impact, and (iv) there is no increase in the potential for or consequences from radiological accidents.

(12) Issuance of an amendment to a license pursuant to Parts 50 and 70 of this chapter relating solely to safeguards matters (i.e., protection against sabotage or loss or diversion of special nuclear material) or issuance of an approval of a safeguards plan submitted pursuant to Parts 50, 70, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts.

(13) Approval of package designs for the delivery of licensed materials to a carrier for transportation.

(14) Issuance, amendment, or renewal of the following types of materials licenses issued pursuant to 10 CFR Parts 30, 40, or 70:

(i) Distribution of devices and products containing radioactive material to general licensees and persons exempt from licensing

(ii) Medical licenses

(iii) Nuclear pharmacies

(iv) Teletherapy licenses

(v) Licenses to academic institutions for educational purposes

(vi) Industrial radiography

(vii) Acceptance of packaged radioactive wastes from others for transfer to licensed land burial facilities

(viii) Irradiators (dry storage—self-contained)

(ix) Irradiators (wet storage—panoramic)

(x) Gauging devices, analytical instruments, and other devices utilizing sealed sources

(xi) Source material licenses for fabrication of the products specified in 10 CFR 40.13, fabrication of military munitions, and laboratory use for research and development

(xii) Well logging

(xiii) Research and development licenses involving less than ten curies of radioactive material

(15) Issuance, amendment or renewal of licenses for import of nuclear facilities and materials pursuant to Part 110 of this chapter, except for import of spent power reactor fuel.

(16) Issuance or amendment of guides for the implementation of regulations in this chapter, and issuance or amendment of other informational and procedural documents that do not impose any legal requirements.

Determinations To Prepare Environmental Impact Statements, Environmental Assessments or Findings of No Significant Impact, and Related Procedures

§ 51.25 Determination to prepare environmental impact statement or environmental assessment; eligibility for categorical exclusion.

Before taking a proposed action subject to the provisions of this subpart, the appropriate NRC staff director or his designee will determine on the basis of the criteria and classifications of types of actions in §§ 51.20, 51.21, 51.22 whether the proposed action is of the type listed in § 51.22(c) as a categorical exclusion or whether an environmental impact statement or an environmental assessment should be prepared.

§ 51.26 Requirement to publish notice of intent and conduct scoping process.

(a) Whenever the appropriate NRC staff director or his designee determines that an environmental impact statement will be prepared in connection with a proposed action, a notice of intent will be published and an appropriate scoping process will be conducted.

(b) The scoping process may include a public scoping meeting.

§ 51.27 Notice of intent.

(a) The notice of intent required by § 51.26 shall:

(1) State that an environmental impact statement will be prepared;

(2) Describe the proposed action and possible alternatives;

(3) State whether the applicant or petitioner has filed an environmental report, and where copies are available for public inspection;

(4) Describe the proposed scoping process, including the role of participants, whether written comments will be accepted, the last date for submitting comments and where comments should be sent, whether a public scoping meeting will be held, the time and place of any scoping meeting or when the time and place of the meeting will be announced; and

(5) State the name, address and telephone number of an individual in NRC who can provide information about the proposed action, the scoping process, and the environmental impact statement.

Scoping

§ 51.28 Scoping—environmental impact statement.

(a) The scoping process for an environmental impact statement shall begin as soon as practicable after publication of the notice of intent and shall:

(1) Define the proposed action which is to be the subject of the statement. The provisions of 40 CFR 1502.4 will be used for this purpose.

(2) Determine the scope and identify the significant issues to be analyzed in depth.

(3) Identify and eliminate from detailed study issues which are peripheral or are not significant or which have been covered by prior environmental review. Discussion of these issues in the statement will be limited to a brief presentation of why they are peripheral or will not have a significant effect on the quality of the human environment or a reference to their coverage elsewhere.

(4) Identify any public environmental assessments and other evironmental impact statements which are being or will be prepared that are related to but are not part of the scope of the statement under consideration.

(5) Identify other environmental review and consultation requirements related to the proposed action so that other required analyses and studies may be prepared concurrently and integrated with the environmental impact statement.

(6) Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

(7) Identify any cooperating agencies, and as appropriate, allocate assignments for preparation and schedules for completion of the statement to the NRC and any cooperating agencies.

(8) Describe the means by which the environmental impact statement will be prepared, including any contractor assistance to be used.

(b) At the conclusion of the scoping process, the appropriate NRC staff director or his designee will prepare a concise summary of the determinations and conclusions reached, including the signficant issues identified, and will send a copy of the summary to each participant in the scoping process.

(c) At any time prior to issuance of the draft environmental impact statement, the appropriate NRC staff director or his designee may revise the determinations made under paragraph (b) of this section, as appropriate, if substantial changes are made in the proposed action, or if significant new circumstances or information arise which bear on the proposed action or its impacts.

§ 51.29 Scoping—participants.

(a) The appropriate NRC staff director or his designee shall invite the following persons to participate in the scoping process:

(1) The applicant or the petitioner;

(2) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards;

(3) Affected State and local agencies, including those authorized to develop and enforce relevant environmental standards;

(4) Any affected Indian tribe; and

(5) Any person who requests an opportunity to participate in the scoping process.

(b) Participation in a scoping process does not, by itself, entitle the participant to become a party to the proceeding as provided in 10 CFR 2.714, or in the case of rule making as provided in the notice of hearing, or to make a limited appearance as provided in 10 CFR 2.715.

Environmental Assessment

§ 51.30 Environmental assessment.

(a) An environmental assessment shall identify the proposed action and include:

(1) A brief discussion of

(i) The need for the proposed action;

(ii) Alternatives as required by sec. 102(2)(E) of NEPA;

(iii) The environmental impacts of the proposed action and alternatives; and

(2) A list of agencies and persons consulted, and identification of sources used.

§ 51.31 Determinations based on environmental assessment.

Upon completion of an environmental assessment, the appropriate NRC staff director or his designee will determine whether to prepare an environmental impact statement or a finding of no significant impact on the proposed action. As provided in § 51.33, a determination to prepare a draft finding of no significant impact may also be made.

Finding of No Significant Impact

§ 51.32 Finding of no significant impact.

(a) A finding of no significant impact will:

(1) Identify the proposed action;

(2) State that the Commission has determined not to prepare an environmental impact statement for the proposed action;

(3) Briefly present the reasons why the proposed action will not have a significant effect on the quality of the human environment;

(4) Include the environmental assessment of a summary of the environmental assessment. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference;

(5) Note any other related environmental documents; and

(6) State that the finding and any related environmental documents are available for public inspection and list the location or locations where the documents may be inspected.

§ 51.33 Draft finding of no significant impact.

(a) As provided in paragraph (b) of this section, the appropriate NRC staff director or his designee may make a determination to prepare and issue a draft finding of no significant impact for public review and comment before making a final determination whether to prepare an environmental impact statement or a final finding of no significant impact on the proposed action.

(b) A draft finding of no significant impact may be prepared whenever a proposed action (1) is, or is closely similar to, one which normally requires the preparation of an environmental

impact statement, or (2) is without precedent.

(c) A draft finding of no significant impact will (1) be marked "Draft", (2) contain the information specified in § 51.32 and (3) be accompanied by or include a request for comments on the proposed action and on the draft finding within thirty (30) days, or such longer period as may be specified in the notice of the draft finding.

(d) When a draft finding of no significant impact is issued for a proposed action, a final determination to prepare an environmental impact statement or a final finding of no significant impact for that action shall not be made until the last day of the public comment period has expired.

§ 51.34 Preparation of finding of no significant impact.

(a) Except as provided in paragraph (b) of this section, the finding of no significant impact will be prepared by the NRC staff director authorized to take the action, or his designee.

(b) If the action is subject to a hearing under the regulations in Subpart G of Part 2 of this chapter or if the action can only be taken by the Commissioners acting as a collegial body, the appropriate NRC staff director or his designee will prepare a proposed finding of no significant impact which may be subject to modification as a result of Commission review and decision as appropriate to the nature and scope of the proceeding. In such cases, the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commission acting as a collegial body, as appropriate, will issue the final finding of no significant impact.

§ 51.35 Requirement to publish finding of no significant impact; limitation on Commission action.

(a) Whenever the Commission makes a draft or final finding of no significant impact on a proposed action, the finding will be published as provided in § 51.119.

(b) Unless the Commission is required to take emergency action, the Commission shall not take any action for which a draft finding of no significant impact has been made until after the final finding has been published in the Federal Register.

Environmental Reports and Information—Requirements Applicable to Applicants and Petitioners

General

§ 51.40 Consultation with NRC staff.

(a) A prospective applicant or petitioner is encouraged to confer with NRC staff as early as possible in its planning process before submitting environmental information or filing an environmental report.

(b) Requests for guidance or information on environmental matters may include inquiries relating to:

(1) Applicable NRC rules and regulations;

(2) Format, content and procedures for filing environmental reports and other environmental information;

(3) Availability of relevant environmental studies and environmental information;

(4) Need for, appropriate level and scope of any environmental studies or information which the Commission may require to be submitted in connection with an application or petition;

(5) Public meetings with NRC staff.

(c) Questions concerning environmental matters should be addressed to the following NRC staff offices as appropriate:

Utilization facilities: Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492–7691.

Production facilities: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 427–4063.

Materials licenses: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 427–4063.

Rulemaking: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492–7511.

§ 51.41 Requirement to submit environmental information.

The Commission may require an applicant for a permit, license, or other form of permission, or amendment to or renewal of a permit, license or other form of permission, or a petitioner for rulemaking to submit such information to the Commission as may be useful in aiding the Commission in complying with section 102(2) of NEPA. The Commission will independently evaluate the information submitted and will be responsible for the reliability of any information which it uses.

Environmental Reports—General Requirements

§ 51.45 Environmental report.

(a) *General.* As required by §§ 51.50, 51.53, 51.54, 51.60 or 51.65 each applicant or petitioner shall submit with its application or petition a separate document entitled "Applicant's" or "Petitioner's Environmental Report," as appropriate, in the number of copies specified in §§ 51.55, 51.61 or 51.66. An applicant or petitioner may submit a supplement to an environmental report at any time.

(b) *Environmental considerations.* The environmental report shall contain a description of the proposed action, a statement of its purposes, a description of the environment affected, and discuss the following considerations:

(1) The impact of the proposed action on the environment. Impacts shall be discussed in proportion to their significance;

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action. The discussion of alternatives shall be sufficiently complete to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, "appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." To the extent practicable, the environmental impacts of the proposal and the alternatives should be presented in comparative form;

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) *Analysis.* The environmental report shall include an analysis which considers and balances the environmental effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental effects, as well as the environmental, economic, technical and other benefits of the proposed action. The analysis shall, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or these factors cannot be quantified, they shall be discussed in qualitative terms. The environmental report should contain sufficient data to aid the Commission in its development of an independent analysis.

(d) *Status of compliance.* The environmental report shall list all Federal permits, licenses, approvals and other entitlements which must be obtained in connection with the proposed action and shall describe the status of compliance with these requirements. The environmental report shall also include a discussion of the status of compliance with applicable

environmental quality standards and requirements (including, but not limited to, applicable zoning and land-use regulations, and thermal and other water pollution limitations or requirements promulgated or imposed pursuant to the Federal Water Pollution Control Act) which have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection. The discussion of alternatives in the report shall include a discussion whether the alternatives will comply with such applicable environmental quality standards and requirements.

(e) *Adverse information.* The information submitted pursuant to paragraphs (b)–(d) of this section should not be confined to information supporting the proposed action but should also include adverse information.

Environmental Reports—Production and Utilization Facilities

§ 51.50 Environmental reports—construction permit stage.

Each applicant for a permit to construct a production or utilization facility covered by § 51.20 shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled "Applicant's Environmental Report—Construction Permit Stage," which shall contain the information specified in §§ 51.45, 51.51 and 51.52.

§ 51.51 Environmental effects of uranium fuel cycle—table S-3. [Reserved]

Note.—On July 27, 1979, the Commission promulgated a final rule to be effective September 4, 1979. When proposed Part 51 is promulgated in final form, this section will incorporate the text of the effective rule.

§ 51.52 Environmental effects of transportation of fuel and waste.

Every environmental report prepared for the construction permit stage of a light-water-cooled nuclear power reactor, and submitted after February 4, 1975, shall contain a statement concerning transportation of fuel and radioactive wastes to and from the reactor. That statement shall indicate that the reactor and this transportation either meet all of the conditions in paragraph (a) of this section or all of the conditions in paragraph (b) of this section.

(a)(1) The reactor has a core thermal power level not exceeding 3,800 megawatts;

(2) The reactor fuel is in the form of sintered uranium dioxide pellets having a uranium-235 enrichment not exceeding 4% by weight, and the pellets are encapsulated in zircaloy rods;

(3) The average level of irradiation of the irradiated fuel from the reactor does not exceed 33,000 megawatt-days per metric ton, and no irradiated fuel assembly is shipped until at least 90 days after it is discharged from the reactor;

(4) With the exception of irradiated fuel, all radioactive waste shipped from the reactor is packaged and in a soild form;

(5) Unirradiated fuel is shipped to the reactor by truck; irradiated fuel is shipped from the reactor by truck, rail, or barge; and radioactive waste other than irradiated fuel is shipped from the reactor by truck or rail; and

(6) The environmental impacts of transportation of fuel and waste to and from the reactor, with respect to normal conditions of transport and possible accidents in transport, are as set forth in Summary Table S-4 in paragraph (c) of this section; and the values in the table represent the contribution of the transportation to the environmental costs of licensing the reactor.

(b) For reactors not meeting the conditions of paragraph (a) of this section, the statement shall contain a full description and detailed analysis of the environmental effects of transportation of fuel and wastes to and from the reactor, including values for the environmental impact under normal conditions of transport and for the environmental risk from accidents in transport. The statement shall indicate that the values determined by the analysis represent the contribution of such effects to the environmental costs of licensing the reactor.

Summary Table S-4.—*Environmental Impact of Transportation of Fuel and Waste to an From 1 Light-Water-Cooled Nuclear Power Reactor*[1]

[Normal conditions of transport]

	Environmental Impact
Heat (per irradiated fuel cask in transit)	250,000 Btu/hr.
Weight (governed by Federal or Federal or State restrictions)	73,000 lbs. per truck; 100 tons per cask per rail car.
Traffic density:	
Truck	Less than 1 per day.
Rail	Less than 3 per month.

Exposed population	Estimated number of persons exposed	Range of doses to exposed individuals [2] (per reactor year)	Cumulative dose to exposed population (per reactor year)[3]
Transportation workers	200	0.01 to 300 mrem	4 man-rem.
General public:			
Onlookers	1,100	0.003 to 1.3 millirem	3 man-rem.
Along Route	600,000	0.0001 to 0.06 millirem	

	Environmental risk
ACCIDENTS IN TRANSPORT	
Radiological effects	Small.[4]
Common (nonradiological) causes	1 fatal injury in 100 reactor years; 1 nonfatal injury in 10 reactor years; $475 property damage per reactor year.

[1] Data supporting this table are given in the Commission's "Environmental Survey of Transportation of Radioactive Materials to and from Nuclear Power Plants." WASH-1238, December 1972, and Supp. 1, NUREG-75/038, April 1975. Both documents are available for inspection and copying at the Commission's Public Document Room, 1717 H St. NW., Washington, D.C., and may be obtained from National Technical Information Service, Springfield, Va. 22161. WASH-1238 is available from NTIS at a cost of $5.45 (microfiche, $2.25) and NUREG-75/038 is available at a cost of $3.25 (microfiche, $2.25).

[2] The Federal Radiation Council has recommended that the radiation doses from all sources of radiation other than natural background and medical exposures should be limited to 5,000 millirem per year for individuals as a result of occupational exposure and should be limited to 500 millirem per year for individuals in the general population. The does to individuals due to average natural background radiation is about 130 millirem per year.

[3] Man-rem is Btu expression for the summation of whole body doses to individuals in a group. Thus, if each member of a population group of 1,000 people were to receive a does to 0.001 rem (1 millirem), or if 2 people were to receive a does of 0.5 rem (500 millirem) each, the total man-rem dose in each case would be 1 man-rem.

[4] Although in environmental risk of radiological effects stemming from transportation accidents is currently incapable of being numerically quantified, the risk remains small regardless of whether it is being applied to a single reactor or a multireactor site.

§ 51.53 Supplement to environmental report—operating license stage.

Each applicant for a license to operate a production or utilization facility covered by § 51.20 shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled "Supplement to Applicant's Environmental Report—

Operating License Stage." Unless otherwise required by the Commission, the applicant for an operating license for a nuclear power reactor shall submit this report only in connection with the first licensing action authorizing full power operation. In this report, the applicant shall discuss the same matters described in §§ 51.45, 51.51 and 51.52, but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit.

§ 51.54 Environmental report—manufacturing license.

Each applicant for a license to manufacture a nuclear power reactor, or for an amendment to a license to manufacture seeking approval of the final design of the nuclear power reactor, pursuant to Appendix M of Part 50 of this chapter shall submit with its application to the Director of Nuclear Reactor Regulation the number of copies, as specified in § 51.55, of a separate document, entitled "Applicant's Environmental Report—Manufacturing License," or "Supplement to Applicant's Environmental Report—Manufacturing License." The environmental report shall address the enviromental matters specified in Appendix M of Part 50 of this chapter, and shall contain the information specified in § 51.45 as appropriate.

§ 51.55 Environmental report—number of copies; distribution.

(a) Each applicant for a license to construct and operate a production or utilization facility covered by paragraphs (b)(1), (b)(2), (b)(3) or (b)(4), of § 51.20 shall submit to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, in accordance with § 50.30(c)(1)(iv) of Part 50 of this chapter, forty-one (41) copies of an environmental report, or any supplement to an environmental report. The applicant shall retain an additional 109 copies of the environmental report or any supplement to the environmental report for distribution to parties and Boards in the NRC proceeding, Federal, State, and local officials and any affected Indian tribes, in accordance with written instructions issued by the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards or their designees, as appropriate.

(b) Each applicant for a license to manufacture a nuclear power reactor, or for an amendment to a license to manufacture seeking approval of the final design of the nuclear power reactor, pursuant to Appendix M of Part 50 of this chapter shall submit forty-one (41) copies of an environmental report or any supplement to an environmental report to the Director of Nuclear Reactor Regulation. The applicant shall retain an additional 109 copies of the environmental report or any supplement to the environmental report for distribution to parties and Boards in the NRC proceeding, Federal, State, and local officials and any affected Indian tribes, in accordance with written instructions issued by the Director of Nuclear Reactor Regulation or his designee, as appropriate.

Environmental Reports—Materials Licenses

§ 51.60 Environmental report—materials licenses.

Each applicant for a license or other form of permission, or an amendment to or renewal of a license or other form of permission issued pursuant to Parts 30, 40, and/or 70 of this chapter, covered by paragraphs (b)(6), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), or (b)(12) of § 51.20, or (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), or (b)(10) of § 51.21 shall submit with its application to the Director of Nuclear Material Safety and safeguards the number of copies, as specified in § 51.61, of a separate document, entitled "Applicant's Environmental Report." The "Applicant's Environmental Report" shall contain the information specified in § 51.45.

§ 51.61 Environmental report—number of copies; distribution.

Each applicant for a license or other form of permission, or an amendment to or renewal of a license or other form of permission issued pursuant to Parts 30, 40, and/or 70 of this chapter, covered by paragraphs (b)(6), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), or (b)(12) of § 51.20, or (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), or (b)(10) of § 51.21, shall submit to the Director of Nuclear Material Safety and Safeguards an environmental report in the number of copies specified. The applicant shall retain additional copies of the environmental report in the number of copies specified for distribution to Federal, State, and local officials and any affected Indian tribes in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards, or his designee.

Environmental Report

Type of licensing action	Number of copies to be submitted with application	Number of copies to be retained by applicant for subsequent distribution
Licensing actions requiring environmental impact statements pursuant to § 51.20(b) of this subpart	25 copies	125 copies.
Licensing actions requiring environmental assessments pursuant to § 51.21(b) of this subpart	15 copies	None.

Environmental Reports—Rulemaking

§ 51.65 Environmental report—rulemaking.

Petitioners for rulemaking covered by § 51.21(b)(12) shall submit with the petition the number of copies, as specified in § 51.66, of a separate document entitled "Petitioner's Environmental Report," which shall contain the information specified in § 51.45.

§ 51.66 Environmental report—number of copies.

Petitioners for rule making covered by § 51.65 shall submit fifty (50) copies of an environmental report or any supplement to an environmental report.

Environmental Impact Statements

Draft Environmental Impact Statements—General Requirements

§ 51.70 Draft environmental impact statement—general.

(a) The NRC staff will prepare a draft environmental impact statement as soon as practicable after publication of the notice of intent to prepare an environmental impact statement and completion of the scoping process. To the fullest extent practicable, environmental impact statements will be prepared concurrently or integrated with environmental impact analyses and related surveys and studies required by other Federal law.

(b) The draft environmental statement will be concise, clear and analytic, will be written in plain language with appropriate graphics, will state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(a) of NEPA and other environmental laws and policies, will identify any methodologies used and sources relied upon, and will be supported by evidence that the necessary environmental analyses have been made. The format provided in Appendix A of this subpart should be

used. The NRC staff will independently evaluate information submitted by the applicant or petitioner or others and will be responsible for the reliability of all information used in the draft environmental impact statement.

(c) The Commission will cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, as prescribed by 40 CFR 1506.2 (b) and (c).

§ 51.71 Draft environmental impact statement—contents.

(a) *Scope.* The draft environmental impact statement will be prepared in accordance with the scope decided upon in the scoping process required by §§ 51.26 and 51.28 of this subpart. As appropriate and to the extent required by the scope, the draft statement will address the topics in paragraphs (b), (c), (d) and (e) of this section and the matters specified in §§ 51.45, 51.51, 51.52 and 51.53.

(b) *Analysis of major points of view.* The draft environmental impact statement will include consideration of major points of view expressed on the environmental impacts of the proposed action and the alternatives, and contain an analysis of significant problems and objections raised by other Federal, State, and local agencies, by any affected Indian tribes, and by other interested persons.

(c) *Status of compliance.* The draft environmental impact statement will list all Federal permits, licenses, approvals, and other entitlements which must be obtained in implementing the proposed action and will describe the status of compliance with those requirements. If it is uncertain whether a Federal permit, license, approval, or other entitlement is necessary, the draft environmental impact statement will so indicate.

(d) *Analysis.* The draft environmental impact statement will include a preliminary analysis which considers and balances the environmental and other effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental and other effects, as well as the environmental, economic, technical and other benefits of the proposed action. The analysis will, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or these factors cannot be quantified, they will be discussed in qualitative terms. The analysis will indicate what other interests and considerations of Federal policy, including factors not related to environmental quality, are thought to offset any adverse environmental effects of the proposed action identified pursuant to paragraph (a) of this section. Due consideration will be given to compliance with environmental quality standards and requirements which have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection, including applicable zoning and land-use regulations and water pollutant limitations or requirements promulgated or imposed pursuant to the Federal Water Pollution Control Act.

(e) *Preliminary recommendation.* The draft environmental impact statement normally will include a preliminary recommendation by the NRC staff respecting the proposed action. This preliminary recommendation will be based on the information and analysis described in paragraphs (a)–(d) of this section and §§ 51.75, 51.76, 51.80 and 51.85, as appropriate, and will be reached after weighing the costs and benefits of the proposed action and will considering reasonable alternatives. In lieu of a preliminary recommendation, the NRC staff may indicate in the draft statement that two or more alternatives remain under consideration.

§ 51.72 Supplement to draft environmental impact statement.

(a) The NRC staff will prepare a supplement to a draft environmental impact statement for which a notice of availability has been published if:

(1) There are substantial changes in the proposed action that are relevant to environmental concerns; or

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) The NRC staff may prepare a supplement to a draft environmental impact statement when, in their opinion, preparation of a supplement will further the purposes of NEPA.

(c) The supplement to a draft environmental impact statement will be prepared and noticed in the same manner as the draft environmental impact statement except that a scoping process need not be used.

§ 51.73 Request for comments on draft environmental impact statement.

Each draft environmental impact statement and each supplement to a draft environmental impact statement distributed in accordance with § 51.74, and each news release provided pursuant to § 51.74(d) will be accompanied by or include a request for comments on the proposed action and on the draft environmental impact statement or any supplement to the draft environmental impact statement and will state where comments should be submitted and the date on which the comment period closes. A minimum comment period of 45 days will be provided. The comment period will be calculated from the date on which the Environmental Protection Agency notice announcing the availability of the draft statement or the supplement to the draft statement is published in the Federal Register. If no comments are provided within the time specified, it will be presumed, unless the agency or person requests an extension of time, that the agency or person has no comment to make. To the extent practicable, NRC staff will grant reasonable requests for extensions of time of up to fifteen (15) days.

§ 51.74 Distribution of draft environmental impact statement and supplement to draft environmental impact statement; news releases.

(a) A copy of the draft environmental impact statement will be distributed to:

(1) The Environmental Protection Agency.

(2) Any other Federal agency which has special expertise or jurisdiction by law with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards.

(3) The applicant or petitioner and any other party to the proceeding.

(4) Appropriate State and local agencies authorized to develop and enforce relevant environmental standards.

(5) Appropriate State, regional and metropolitan clearinghouses.

(6) Appropriate Indian tribes when the proposed action may have an environmental impact on a reservation.

(7) Upon request, any organization or group included in the list of interested organizations and groups maintained under § 51.122.

(8) Upon request, any other person to the extent available.

(b) additional copies will be provided upon request to the extent available.

(c) A supplement to a draft environmental impact statement will be distributed in the same manner as the draft environmental impact statement to which it relates.

(d) News releases stating the availability for comment and place for obtaining or inspecting a draft environmental statement or supplement will be provided to local newspapers and other appropriate media.

(e) A notice will be published in the Federal Register in accordance with § 51.117.

Draft Environmental Impact Statements—Production and Utilization Facilities

§ 51.75 Draft environmental impact statement—construction permit.

A draft environmental impact statement relating to issuance of a construction permit for a production or utilization facility will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72 and 51.73.

§ 51.76 Draft environmental impact statement—manufacturing license.

A draft environmental impact statement relating to issuance of a license to manufacture a nuclear power reactor will address the environmental matters specified in Appendix M of Part 50 of this chapter. The draft environmental impact statement will include a request for comments as provided in § 51.73.

§ 51.77 Distribution of draft environmental impact statement.

(a) In addition to the distribution authorized by § 51.74, a copy of a draft environmental statement for a licensing action for a production or utilization facility, except an action authorizing issuance, amendment or renewal of a license to manufacture a nuclear power reactor pursuant to 10 CFR Part 50, Appendix M will also be distributed to:

(1) The chief executive of the municipality or county identified in the draft environmental impact statement as the preferred site for the proposed facility or activity.

(2) Upon request, the chief executive of each municipality or county identified in the draft environmental impact statement as an alternative site.

(b) Additional copies will be provided upon request to the extent available.

Draft Environmental Impact Statements—Materials Licenses

§ 51.80 Draft environmental impact statement—materials license.

Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.70, 51.71, 51.72 and 51.73 will be followed in proceedings for the issuance of materials licenses covered by § 51.20(b)(6)–(12).

§ 51.81 Distribution of draft environmental impact statement.

Copies of the draft environmental impact statement and any supplement to the draft environmental impact statement will be distributed in accordance with the provisions of § 51.74.

Draft Environmental Impact Statements—rule Making

§ 51.85 Draft environmental impact statement—Rule making.

Except as the context may otherwise require, procedures and measures similar to those described in §§ 51.70, 51.71, 51.72 and 51.73 will be followed in proceedings for rulemaking for which the Commission has determined to prepare an environmental impact statement.

§ 51.86 Distribution of draft environmental impact statement.

Copies of the draft environmental impact statement and any supplement to the draft environmental impact statement will be distributed in accordance with the provisions of § 51.74.

Legislative Environmental Impact Statements—Proposals for Legislation

§ 51.88 Proposals for legislation.

The Commission will, as a matter of policy, follow the provisions of 40 CFR 1506.8 regarding the NEPA process for proposals for legislation.

Final Environmental Impact Statements—General Requirements

§ 51.90 Final environmental impact statement—general.

After receipt and consideration of comments requested by §§ 51.73 and 51.117, the NRC staff will prepare a final environmental impact statement in accordance with the requirements in §§ 51.70(b) and 51.71 for a draft environmental impact statement. The format provided in Appendix A of this subpart should be used.

§ 51.91 Final environmental impact statement—contents.

(a)(1) The final environmental impact statement will include responses to any comments on the draft environmental impact statement or on any supplement to the draft environmental impact statement. Responses to comments may include:

(i) Modification of alternatives, including the proposed action;

(ii) Development and evaluation of alternatives not previously given serious consideration;

(iii) Supplementation or modification of analyses;

(iv) Factual corrections;

(v) Explanation of why comments do not warrant further response, citing sources, authorities or reasons which support this conclusion.

(2) All substantive comments received on the draft environmental impact statement or any supplement to the draft environmental impact statement (or summaries thereof where the response has been exceptionally voluminous) will be attached to the final statement, whether or not each comment is discussed individually in the text of the statement.

(3) If changes in the draft environmental impact statement in response to comments are minor and are confirmed either to factual corrections or to explanations of why the comments do not warrant further response, the changes may be made by attaching errata sheets to the draft statement. The entire document with a new cover may then be issued as the final environmental impact statement.

(b) The final environmental impact statement will discuss any responsible opposing view not adequately discussed in the draft environmental impact statement or in any supplement to the draft environmental impact statement, and respond to the issues raised.

(c) The final environmental impact statement will state how the alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of NEPA and of any other relevant environmental laws.

(d) The final environmental impact statement will include a final analysis and a final recommendation as to the action called for.

§ 51.92 Supplement to final environmental impact statement.

(a) The NRC staff may prepare a supplement to a final environmental impact statement when, in their opinion, preparation of a supplement will further the purposes of NEPA.

(b) A supplement to a final environmental impact statement will be prepared and noticed in the same manner as the final environmental impact statement except that a scoping process need not be used.

(c) A supplement to a final environmental impact statement will be accompanied by or will include a request for comments as provided in § 51.73 if the conditions described in § 51.72(a) (1) or (2) apply.

§ 51.93 Distribution of final environmental impact statement and supplement to final environmental impact statement; news releases.

(a) A copy of the final environmental impact statement will be distributed to:

(1) The Environmental Protection Agency.

(2) The applicant or petitioner and any other party to the proceeding.

(3) Appropriate State, regional and metropolitan clearinghouses.

(4) Each commenter.

(5) Upon request, any other person to the extent available.

(b) Additional copies will be provided upon request to the extent available.

(c) If the final environmental impact statement is unusually long or there are so many comments on a draft environmental impact statement or any supplement to a draft environmental impact statement that distribution of the entire final statement to all commenters is impracticable, a summary of the final statement and the substantive comments will be distributed. When the final environmental impact statement has been prepared by adding errata sheets to the draft environmental impact statement as provided in § 51.91(a)(3), only the comments, the responses to the comments and the changes to the environmental impact statement will be distributed.

(d) A supplement to a final environmental impact statement will be distributed in the same manner as the final environmental impact statement to which it relates.

(e) News releases stating the availability and place for obtaining or inspecting a final environmental impact statement or supplement will be provided to local newspapers and other appropriate media.

(f) A notice will be published in the Federal Register in accordance with § 51.118.

§ 51.94 Requirement to consider final environmental impact statement.

(a) The final environmental impact statement, together with any comments and any supplement, will accompany the application or petition through, and be considered in, the Commission's decisionmaking process.

(b) The final environmental impact statement, together with any comments and any supplement, will be made a part of the record of any rulemaking or adjudicatory proceeding.

Final Environmental Impact Statements—Production and Utilization Facilities

§ 51.95 Supplement to final environmental impact statement—operating license.

In connection with the issuance of an operating license for a production or utilization facility, the NRC staff will prepare a supplement to the final environmental impact statement on the construction permit for that facility. The supplement will include a request for comments as provided in § 51.73. The supplement will cover only matters which differ from or which reflect significant new information in addition to those matters discussed in the final environmental impact statement. Unless otherwise determined by the Commission, a supplement on the operation of a nuclear power reactor will only be prepared in connection with the first licensing action authorizing full power operation.

Final Environmental Impact Statements—Materials Licenses

§ 51.97 [Reserved]

Final Environmental Impact Statements—Rule Making

§ 51.99 [Reserved]

NEPA Procedure and Administrative Action

General

§ 51.100 Timing of Commission action.

(a)(1) Except as provided in paragraph (b) of this section, no decision on a proposed action, including the issuance of a permit, license, or other form of permission, or amendment to or renewal of a permit, license, or other form of permission, or the issuance of an effective regulation, for which an environmental impact statement is required, will be made and no record of decision will be issued until the later of the following dates:

(i) Ninety (90) days after publication by the Environmental Protection Agency of a Federal Register notice of filing of the draft environmental impact statement.

(ii) Thirty (30) days after publication by the Environmental Protection Agency of a Federal Register notice of filing of the final environmental impact statement.

(2) If a notice of filing of a final Environmental Impact Statement is published by the Environmental Protection Agency within ninety (90) days after a notice of filing of a draft environmental statement has been published by EPA, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently to the extent they overlap.

(b) In any rulemaking proceeding for the purpose of protecting the public health or safety or the common defense and security, the Commission may make and publish the decision on the final rule at the same time that the Environmental Protection Agency publishes the Federal Register notice of filing of the final environmental impact statement.

§ 51.101 Limitations on actions.

(a) Until a record of decision is issued in connection with a proposed licensing or regulatory action for which an environmental impact statement is required as provided in § 51.20, or until a final finding of no significant impact is issued in connection with a proposed licensing or regulatory action for which an environmental assessment is required as provided in § 51.21:

(1) No action concerning the proposal may be taken by the Commission which would (i) have an adverse environmental impact, or (ii) limit the choice of reasonable alternatives.

(2) Any action concerning the proposal taken by an applicant or petitioner which would (i) have an adverse environmental impact, or (ii) limit the choice of reasonable alternatives may be grounds for denial of the license or petition. In the case of an application covered by §§ 30.32(f), 40.31(f); 50.10(c), or 70.21(f) of this chapter, the provisions of paragraph (a)(2) of this section will be implemented as provided in §§ 30.33(a)(5), 40.32(e), 50.10(c) or 70.23(a)(7) of this chapter, as appropriate.

(b) While work on a required program environmental impact statement is in progress, the Commission will not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Absent any satisfactory explanation to the contrary, interim action which tends to determine subsequent development or limit reasonable alternatives, will be considered prejudicial.

(c) This section does not preclude any applicant for an NRC permit, license, or other form of permission, or amendment to or renewal of an NRC permit, license, or other form of permission, (1) from developing any plans or designs necessary to support an application; or (2) after prior notice and consultation with NRC staff, (i) from performing any physical work necessary to support an application, or (ii) from performing any other physical work relating to the proposed action if the adverse environmental impact of that work is de minimis.

§ 51.102 Requirement to provide a record of decision; preparation.

(a) A Commission decision of any action for which a final environmental impact statement has been prepared shall be accompanied by or include a concise public record of decision.

(b) Except as provided in paragraph (c) of this section, the record of decision will be prepared by the NRC staff director authorized to take the action, or his designee.

(c) If the action is subject to a hearing under the regulations in Subpart G of Part 2 of this chapter or if the action can only be taken by the Commissioners acting as a collegial body, the appropriate NRC staff director or his designee will prepare a proposed record of decision, which may be subject to modification as a result of Commission review and decision as appropriate to the nature and scope of the proceeding. In such cases, the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commissioners acting as a collegial body, as appropriate, will issue the record of decision.

§ 51.103 Record of decision—general.

(a) The record of decision required by § 51.102 of this subpart shall be clearly identified and shall:

(1) State the decision.

(2) Identify all alternatives considered by the Commission in reaching the decision, state that these alternatives were included in the range of alternatives discussed in the environmental impact statement, and specify the alternative or alternatives which were considered to be environmentally preferable.

(3) Discuss preferences among alternatives based on relevant factors, including economic and technical considerations, the Commission's statutory mission, and any essential considerations of national policy, which were balanced by the Commission in making the decision and state how these considerations entered into the decision.

(4) State whether the Commission has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm from the alternative selected, and if not, to explain why those measures were not adopted. Summarize any license conditions and monitoring program adopted in connection with mitigation measures.

(b) The record of decision may be integrated into any other record prepared by the Commission in connection with the action. The record of decision may incorporate by reference material contained in a final environmental impact statement.

§ 51.104 NRC proceedings using public hearings; consideration of environmental impact statements; record of decision.

(a) In any proceeding in which a draft environmental impact statement is prepared pursuant to this subpart, the draft environmental impact statement will be made available to the public at least fifteen (15) days before any relevant hearing. At the hearing, the position of the NRC staff on matters covered by this subpart will not be presented until the final environmental impact statement is furnished to the Environmental Protection Agency and commenting agencies and made available to the public. Any other party to the proceeding may present its case on NEPA matters as well as on radiological health and safety matters before the end of the fifteen (15) day period.

(b)(1) The NRC staff will offer the final environmental impact statement in evidence in a proceeding in which

(i) A hearing is held on the issuance of a permit or license, or amendment to or renewal of a permit or license;

(ii) A final environmental impact statement has been prepared in connection with the proposed action; and

(iii) Matters covered by this subpart are in issue.

(2) Any party to the proceeding may take a position and offer evidence on the aspects of the proposed action covered by NEPA and this subpart in accordance with the provisions of Subpart G of Part 2 of this chapter.

(3) In the proceeding the presiding officer will decide those matters in controversy among the parties within the scope of NEPA and this subpart.

(4) In the proceeding, the initial decision of the presiding officer or the final decision of the Commissioners acting as a collegial body or the Atomic Safety and Licensing Appeal Board will incorporate the record of decision required by §§ 51.102 and 51.103 and may include findings and conclusions which affirm or modify the content of the proposed record of decision prepared by the appropriate NRC staff director or his designee as provided in § 51.102(c). The initial or final decision incorporating the record of decision will be distributed as provided in § 51.93.

(c) In any proceeding in which a hearing is held for the issuance of a permit or license, or amendment to or renewal of a permit or license, where the NRC staff has determined that no environmental impact statement need be prepared for the proposed action, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action covered by NEPA and the regulations in this subpart in accordance with the provisions of Subpart G of Part 2 of this chapter. In the proceeding, the presiding officer will decide any such matters in controversy among the parties.

Production and Utilization Facilities

§ 51.105 Public hearings in proceedings for issuance of construction permits or licenses to manufacture.

(a) In addition to complying with applicable requirements of § 51.104 of this subpart, in a proceeding for the issuance of a construction permit for a nuclear power reactor, testing facility, fuel reprocessing plant or isotopic enrichment plant, or for the issuance of a license to manufacture, the presiding officer will:

(1) Determine whether the requirements of section 102(2) (A), (C), and (E) of NEPA and the regulations in this subpart have been met;

(2) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

(3) Determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the construction permit or license to manufacture should be issued, denied, or appropriately conditioned to protect environmental values;

(4) Determine, in an uncontested proceeding, whether the NEPA review conducted by the NRC staff has been adequate; and

(5) Determine, in a contested proceeding, whether in accordance with the regulations in this subpart, the construction permit or license to manufacture should be issued as proposed.

Materials Licenses

§ 51.108 [Reserved]

Rule Making

§ 51.110 [Reserved]

Public Notice of and Access to Environmental Documents

§ 51.116 Notice of intent.

(a) In accordance with § 51.26, the appropriate NRC staff director or his designee will cause to be published in the Federal Register a notice of intent stating that an environmental impact statement will be prepared. The notice will contain the information specified in § 51.27.

(b) Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian tribes, appropriate State, regional, and metropolitan clearinghouses and to interested persons upon request. A public announcement of the notice of intent will also be made.

§ 51.117 Draft environmental impact statement—notice of availability.

(a) Upon completion of a draft environmental impact statement or any supplement to a draft environmental impact statement, the appropriate NRC staff director or his designee will cause to be published in the Federal Register a notice of availability of the statement.

(b) The notice will request comments on the proposed action and on the draft statement or any supplement to the draft statement and will specify where comments should be submitted and when the comment period expires.

(c) The notice will (1) state that copies of the draft statement or any supplement to the draft statement are available for public inspection; (2) list the location or locations where inspection may be made, and (3) state that any comments of Federal, State, and local agencies, Indian tribes or other interested persons will be made available for public inspection when received.

(d) Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian tribes, appropriate State, regional, and metropolitan clearinghouses, and to interested persons upon request.

§ 51.118 Final environmental impact statement—notice of availability

Upon completion of a final environmental impact statement or any supplement to a final environmental impact statement, the appropriate NRC staff director or his designee will cause to be published in the Federal Register a notice of availability of the statement. The notice will state that copies of the final statement or any supplement to the final statement are available for public inspection and list the location or locations where inspection may be made. Copies of the notice will be sent to appropriate Federal, State, and local agencies, and Indian tribes, appropriate State, regional, and metropolitan clearinghouses and to interested persons upon request.

§ 51.119 Publication of finding of no significant impact.

(a) As required by § 51.35, the appropriate NRC staff director or his designee will cause the finding of no significant impact to be published in the Federal Register. The finding of no significant impact will be identified as a draft or final finding, and will contain the information specified in § 51.32 or § 51.33, as appropriate. A draft finding of no significant impact will include a request for comments which specifies where comments should be submitted and when the comment period expires.

(b) The finding will include a statement that copies of the finding, the environmental assessment setting forth the basis for the finding and any related environmental documents are available for public inspection and will list the location or locations where inspection may be made.

(c) Copies of the finding will be sent to appropriate Federal, State; and local agencies, and Indian tribes, appropriate States, regional, and metropolitan clearinghouses and to interested persons upon request.

§ 51.120 Availability of environmental documents for public inspection.

Copies of environmental reports, draft and final environmental impact statements, environmental assessments, and findings of no significant impact, together with any related comments and environmental documents, will be placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in any public document room established by the Commission in the vicinity of the site of the proposed facility or licensed activity where a file of documents pertaining to such proposed facility or activity is maintained.

§ 51.121 Status of NEPA actions.

Individuals or organizations desiring information on the Commission's NEPA process or on the status of specific NEPA actions should address inquiries to:

Utilization facilities: Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492–7691.

Production facilities: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 427–4063.

Materials licenses: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 427–4063.

Rule making: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492–7511.

§ 51.122 List of interested organizations and groups.

The appropriate NRC staff director or his designee will maintain a list of organizations and groups, including relevant conservation commissions, known to be interested in the Commission's licensing and regulatory activities and will promptly notify such organizations and groups of the availability of a draft environmental impact statement or a draft finding of no significant impact.

§ 51.123 Cost of materials distributed to public.

To the extent available, copies of draft and final environmental impact statements, findings of no significant impact and environmental assessments will be made available to the public upon request without charge. When available NRC copies have been exhausted, the requestor will be advised that the National Technical Information Service will provide copies at a fixed fee and that NRC will also provide copies at a fee that does not exceed the actual reproduction costs.

Commenting

§ 51.124 Commission duty to comment.

As a matter of policy the Commission will, as provided by 40 CFR 1503.2 and 1503.3, comment on draft environmental impact statements prepared by other Federal agencies.

Responsible Official

§ 51.125 Responsible official.

The Executive Director for Operations shall be responsible for overall review of NRC NEPA compliance, except where the decision rests as a matter of law with an administrative law judge, Atomic Safety and Licensing Board, Atomic Safety and Licensing Appeal Board, or the Commission acting as a collegial body.

Appendix A—Format for Presentation of Material in Environmental Impact Statements

1. General. (a) The Commission will use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless there is a compelling reason to do otherwise:

(1) Cover sheet*
(2) Summary*
(3) Table of Contents
(4) Purpose of and Need for Action*
(5) Alternatives including the proposed action*
(6) Affected Environment*
(7) Environmental Consequences and Mitigating Actions.*
(8) List of Preparers*
(9) List of Agencies, Organizations and Persons to Whom Copies of the Statement are Sent
(10) Index
(11) Appendices (if any)*

If a different format is used, it shall include paragraphs (1), (2), (3), (8), (9), and (10), of this section and shall include the substance of paragraphs (4), (5), (6), (7), and (11) of this section, in any appropriate format.

Additional guidance on the presentation of material under the format headings identified by an asterisk is set out in sections 2. — 9. of this appendix.

(b) The techniques of tiering and incorporation by reference described

respectively in 40 CFR 1502.20 and 1508.28 and 40 CFR 1502.21[1] of CEQ's NEPA regulations may be used as appropriate to aid in the presentation of issues, eliminate repetition or reduce the size of an environmental impact statement. In appropriate circumstances, draft or final environmental impact statements prepared by other Federal agencies may be adopted in whole or in part in accordance with the procedures outlined in 40 CFR 1506.3[2] of CEQ's NEPA regulations. In final environmental impact statements, material under the following format headings will normally be presented in less than 150 pages: Purpose of and Need for Action, Alternatives Including the Proposed Action, Affected Environment, and Environmental Consequences and Mitigating Actions. For proposals of unusal scope or complexity, the material presented under these format headings may extend to 300 pages.

2. Cover sheet. The cover sheet will not exceed one page. It will include:

(a) The name of the NRC office responsible for preparing the statement and a list of any cooperating agencies.

(b) The title of the proposed action that is the subject of the statement with a list of the states, counties or municipalities where the action is located, as appropriate.

(c) The name, address, and telephone number of the individual in NRC who can supply further information.

(d) A designation of the statement as a draft or final statement, or a draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) For draft environmental impact statements, the date by which comments must be received.

3. Summary. Each environmental impact statement will contain a summary which adequately and accurately summarizes the statement. The summary will stress the major issues considered. The summary will discuss the areas of controversy, will identify any remaining issues to be resolved, and will present the major conclusions and recommendations. The summary will normally not exceed 15 pages.

4. Purpose of and need for action. The statement will briefly describe and specify the purpose of and need for the proposed action. The alternative of no action will be discussed. In the case of nuclear power plants, consideration will be given to the potential impact of conservation measures in determining the demand and consequent need for additional generating capacity.

5. Alternatives including the proposed action. This section is the heart of the environmental impact statement. It will present the environmental impacts of the proposal and the alternatives in comparative form. All reasonable alternatives will be identified. The range of alternatives discussed will encompass those proposed to be considered by the ultimate decisionmaker. An otherwise reasonable alternative will not be excluded from discussion solely on the ground that it is not within the jurisdiction of the Commission.[3] The discussion of alternatives will take into account, without duplicating, the environmental information and analyses included in sections 4., 6. and 7. of this Appendix. Alternatives eliminated from detailed study will be identified and a discussion of those alternatives will be confined to a brief statement of the reasons why the alternatives were eliminated. The level of information for each alternative considered in detail will reflect the depth of analysis required for sound decisionmaking. Where important to the comparative evaluation of alternatives, appropriate mitigating measures for the alternatives will be discussed.

In the draft environmental impact statement, this section will either include a preliminary recommendation as to the action called for, or identify the alternatives under consideration.

In the final environmental impact statement, this section will include a final recommendation as to the action called for.

6. Affected environment. The environmental impact statement will succinctly describe the environment to be affected by the proposed action. Data and analyses in the statement will be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Effort and attention will be concentrated on important issues; useless bulk will be eliminated.

7. Environmental consequences and mitigating actions. This section discusses the environmental consequences of the proposed action and any mitigating action which may be taken. The discussion will include any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section will include discussions of:

(a) Direct effects and their significance.

(b) Indirect effects and their significance.

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned.

(d) Means to mitigate adverse environmental impacts.

8. List of preparers. The environmental impact statement will list the names and qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers. Persons responsible for making an independent evaluation of information submitted by the applicant or petitioner or others will be included in the list. Where possible, the persons who are responsible for a particular analysis, including analyses in background papers, will be identified.

9. Appendices. An appendix to an environmental impact statement will:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (40 CFR 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement. Discussion of methodology used may be placed in an appendix.

(c) Normally be analytic.

(d) Be relevant to the decision to be made.

(e) Be circulated with the environmental impact statement or be readily available on request.

References

1. *Tiering.*

40 CFR 1502.20 states: "Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28)."

40 CFR 1508.28 states: " 'Tiering' refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

"(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

"(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from

[1] Tiering:
40 CFR 1502.20 (For text see reference 1.)
40 CFR 1508.28 (For text see reference 1.)
Incorporation by reference: 40 CFR 1502.21 (For text see reference 1.)

[2] *Option:* 40 CFR 1506.3 (For text see reference 2.)

[3] With respect to limitations on NRC's NEPA authority and responsibility imposed by the Federal Water Pollution Control Act Amendments of 1972, see documents identified in § 51.10(c) of Subpart A of this part.

consideration issues already decided or not yet ripe."

Incorporation by reference.

40 CFR 1502.21 states: "Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference."

2. *Adoption.*

40 CFR 1506.3 states: "(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

"(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

"(c) A cooperation agency may adopt without recirculating the environmental impact statement of a lead agency when after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

"(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify."

Conforming Amendments

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

10 CFR Part 2 is amended as follows:

§ 2.101 [Amended]

2. In § 2.101(a)(3), the phrase "pursuant to Part 51 of this chapter, a part thereof" is changed to read "pursuant to subpart A of Part 51 of this chapter".

§ 2.101 [Amended]

3. In § 2.101(a)(3)(i), the phrase "in Parts 50 and 51" is changed to read "in Part 50 and subpart A of Part 51".

§ 2.101 [Amended]

4. In § 2.101(a)(5), "§ 51.5(a)" is replaced by "§ 51.20(b)" in both places it appears.

§ 2.101 [Amended]

5. In § 2.101(a–1), "§ 51.5(a)" is replaced by "§ 51.20(b)".

§ 2.104 [Amended]

6. In §§ 2.104(b)(1)(v), 2.104(b)(3) and 2.104(C)(7), insert "subpart A of" immediately before "Part 51" wherever it appears.

§ 2.501 [Amended]

7. In § 2.501(b), insert "subpart A of" immediately before "Part 51" wherever it appears.

§ 2.600 [Amended]

8. In § 2.600, "§ 51.5(a)" is replaced by "§ 51.20(b)".

§ 2.603 [Amended]

9. § 2.603(b)(1), "§ 51.5(a)" is replaced by "§ 51.20(b)".

§ 2.605 [Amended]

10. In § 2.605(b)(1), insert "subpart A of" immediately before "Part 51".

§ 2.606 [Amended]

11. In § 2.606(a), insert "subpart A of" immediately before "Part 51".

§ 2.743 [Amended]

12. In § 2.743(g), the phrase "Detailed Statement on environmental considerations" is replaced by "environmental impact statement", and the phrase "subpart A of" is inserted before "Part 51".

§ 2.761a [Amended]

13. In § 2.76a, "§ 51.5(a)" is replaced by "§ 51.20(b)", and the phrase "subpart A of" is inserted before "Part 51" wherever it appears.

§ I (Appendix A) [Amended]

14. In § I(a) and (d) of Appendix A to Part 2, the phrase "detailed statement on environmental considerations" is replaced by "environmental impact statement".

§ I (Appendix A) [Amended]

15. In § I(c)(2) of Appendix A to Part 2, insert "subpart A of" immediately before "Part 51".

§ V (Appendix A) [Amended]

16. In § V(d)(2) of Appendix A to Part 2, the phrase "final detailed environmental statement" is replaced by "final environmental impact statement".

§ V (Appendix A) [Amended]

17. In § V(f)(1) and (3) of Appendix A to Part 2, insert "subpart A of" immediately before "Part 51" wherever it appears.

§ VI (Appendix A) [Amended]

18. In § VI(c)(3) of Appendix A to Part 2, insert "subpart A of" immediately before "Part 51" wherever it appears.

§ VII (Appendix A) [Amended]

19. In § VII(b)(7) of Appendix A to Part 2, insert "subpart A of" immediately before "Part 51".

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

10 CFR Part 30 is amended as follows:

§ 30.32 [Amended]

20. In § 30.32(f), insert "subpart A of" immediately before "Part 51".

§ 30.33 [Amended]

21. In § 30.33(a)(5), insert "subpart A of" immediately before "Part 51".

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

10 CFR Part 40 is amended as follows:

§§ 40.31 and 40.32 [Amended]

22. In § 40.31(f) and § 40.32(e), insert "subpart A of" immediately before "Part 51".

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

10 CFR Part 50 is amended as follows:

§ 50.10 [Amended]

23. In § 50.10(c), "51.5(a)" is replaced by "§ 51.20(b)".

§ 50.10 [Amended]

24. In § 50.10(e)(1), "§ 51.5(a)" is replaced by "51.20(b)" and the phrase "subpart A of" is inserted before "Part 51".

§ 50.10 [Amended]

25. In § 50.10(e)(2), "§ 51.52(b) and (c)" is replaced by "§§ 51.104(b) and § 51.105".

§ 50.10 [Amended]

26. In § 50.10(e)(3)(i), "§ 51.5(a)" is replaced by "§ 51.20(b)".

§ 50.30 [Amended]

27. In § 50.30(f), insert "subpart A of" immediatly before "Part 51".

§ 50.40 [Amended]

28. § 50.40(d) is revised to read:

* * * * *

"(d) Any applicable requirements of subpart A of Part 51 have been satisfied".

Appendix M to Part 50 [Amended]

29. In §§ 3., 5.(g) and 11. of Apendix M to Part 50, insert "subpart A of" immediately before "Part 51".

Appendix N to Part 50 [Amended]

30. In § 2 of Appendix N to Part 50, "§ 51.20" is replaced by "§ 51.50".

Appendix N to Part 50 [Amended]

31. In § 3 of Appendix N to Part 50, "§ 51.21" is replaced by "§ 51.53".

Appendix O to Part 50 [Amended]

32. In § 7 of Appendix O to Part 50, "§ 51.5" is replaced by "§ 51.20(b)(13)".

Appendix Q to Part 50 [Amended]

33. In the introductory paragraph and in § 5. of Appendix Q to Part 50, "§ 51.5(a)" is replaced by "§ 51.20(b)".

Appendix Q to Part 50 [Amended]

34. In § 7 of Appendix Q to Part 50, insert "subpart A of" immediately before "Part 51" wherever it appears.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10 CFR Part 70 is amended as follows:

§ 70.21 [Amended]

35. In § 70.21(f), insert "subpart A of" immediately before "Part 51".

§ 70.23 [Amended]

36. In § 70.23(a)(7), insert "subpart A of" immediately before "Part 51".

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

37. Section 110.44(d) of 10 CFR Part 110 is revised to read as follows:

§ 110.44 Issuance or denial of licenses.

* * * * *

(d) The Commission will issue an import license if it determines that the proposed import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and that any applicable requirements of Subpart A of Part 51 of this chapter have been satisfied.

Dated at Washington, D.C., this 25th day of February 1980.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Appendix B

Letters from the Council on Environmental Quality, dated September 26, 1979 and October 29, 1979, containing CEQ's preliminary views on the NRC staff's proposed revision of 10 CFR Part 51 (Enclosure A to SECY-79-473, August 6, 1979) as submitted to the Commission for review. SECY-79-473 is available for public inspection and copying in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C.

Executive Office of the President,
Washington, D.C., September 26, 1979.

Mr. Howard Shapar,
Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C.

Dear Mr. Shapar: Thank you for your letter of August 13, 1979 and the copies of the draft NEPA regulations prepared by the Commission staff. We have reviewed the draft NRC regulations. This letter contains our preliminary views. These comments do not substitute for the Council's final review of the Commission's NEPA regulations. That review will be made after the public review and comment process and before final action by the Commission, in accordance with the procedures announced in our letter of January 19, 1979 to all agencies on this issue.

In general, we believe the staff has done a good job in preparing the draft NRC regulations. The draft regulations appear to address the six requirements for agency NEPA procedures set forth in Section 1507.3(b) with several exceptions noted below.

We continue to stress that the Council's new regulations are sufficiently flexible to avoid any conflict with the Commission's responsibilities as an independent regulatory agency and we reiterate the assurances made to Chairman Hendrie in Chairman Speth's letter of June 25, 1979.

The following are our specific thoughts on the draft regulations:

1. (Draft Proposal, p. 15) The preamble to the draft regulations states that, pending further study, the regulations will not implement 40 CFR 1502.14(b), which requires "substantial treatment to each alternative considered in detail. . . ." This is justified in part on the "premis that major adverse environmental impacts can normally be identified using reconnaisance-level information."

We urge the Commission to adopt the standard set forth in 40 CFR 1502.14(b) for the treatment of alternatives. That section of the Council's regulations is a restatement of existing NEPA law, which is binding on the Commission. Moreover, the rule of reason will apply here as at other stages of the NEPA process. The Commission will be able to fully assess alternatives without undue burden or excessive costs.

2. (Draft Proposal p. 16, ¶ 2; p. 60). Pending further study, staff proposes that where information, which is essential to a reasoned choice among alternatives would be costly to obtain but not exorbitant, the information need not be obtained. We strongly disagree with this proposal. We urge the Commission to adopt the standard set forth in 40 C.F.R. 1502.22(a), which is a restatement of existing NEPA law. This requirement is also subject to the rule of reason and should not impose undue burdens on the Commission.

3. (Draft Proposal, p. 16 ¶ 3). Pending further study, staff proposes not to conduct worst case analyses in connection with any of its licensing functions because of the "impact on the length of time and resources required to complete NRC licensing reviews". We believe that it is appropriate for the Commission to conduct worst case analyses and, for example, consider Class Nine accidents in the course of site specific review. This would be consistent with the recently proposed staff population density guidelines. The Commission's exclusion of Class nine accident effects from EIS analysis (because of their remote likelihood) can no longer be supported in view of the events at Three Mile Island. There may however be a potential for preparing generic or programmatic EISs for Class Nine acidents, to be supplemented on a site specific basis.

4. (Draft Proposal, p. 60) We believe the draft of 10 C.F.R. 51.10(b)(2) should be clarified to make EIS preparation discretionary. The Council recognizes the right of the Commission to prepare an independent environmental impact statement for proposals over which it has jurisdiction whenever it determines that an existing statement is inadequate or whenever it determines such EIS is necessary to fulfill NEPA's goals and policies. However, we believe the Commission should avoid unnecessary duplication in preparing an impact statement where a lead agency has prepared an adequate EIS concerning the environmental issues involved in the proposal.

5. (Draft Proposal, pp. 17 and 60) Pending further study, staff is reluctant to prepare an environmental impact statement in cases of inaction, for example, when the Commission denies a petition for rulemaking. However, it would appear that at least certain generic issues, which are the subject of petitions for rulemaking, warrant NEPA review. In view of the draft proposal requiring petitioners to submit environmental reports (p. 100, 10 CFR 51.65) it should not be unduly burdensome for the Commission to utilize such a report in preparing an environmental impact statement or environmental assessment. For these reasons the Council urges the Commission to adhere to the definition of major federal action in Section 1508.18 of the Council regulations.

6. (Draft Proposal, pp. 35, 73) Staff proposes to categorically exclude all Commission actions relating to safeguards and physical security, which do not involve significant construction impacts, from application of the EIS procedures. The Council cannot endorse this exclusion, which is contrary to Council views dating back to 1975. We strongly believe that such substantive matters should be the subject of review in an EIS.

7. (Draft Proposal, pp. 6, 35a-36, 48 and 73) The staff proposal excludes not only all transportation approvals and actions from EIS review, but package design approvals as well. Moreover, staff proposes that imports (p. 48) of nuclear materials and equipment be excluded from the EIS process. The only review proposed by staff for transportation is a tangential analysis in connection with the Commission's actions regarding the *use* of the materials and equipment by a license applicant. We believe that there are instances when the Commission's actions regarding transportation are potentially so significant, that full NEPA review is essential.

8. (Draft Proposal, p. 37) It is unclear whether staff proposes to exclude a nuclear reactor at an educational institution from the NEPA process. Such an exclusion would be at odds with the intent of the Act. This provision should be clarified.

9. (Draft Proposal, pp. 68-69, 73) The draft regulations would exclude from NEPA review decontamination and decommissioning, (p. 73) and reuse of facilities, such as Three Mile Island, at less than full power. The Council cannot endorse such an exclusion. Assessments should be required in order to determine if the proposed decontamination or decommissioning plan involves significant effects on the environment. It appears more than likely that most such actions could involve significant effects on the environment.

10. (Draft Proposal, pp. 71-73) The regulations proposed would limit NEPA review to an environmental assessment for Commission decisions to operate reactors, fuel reprocessing plants, etc. at less than full power (item (b)(3)). (See also p. 115). Similarly, staff proposes to so limit certain environmental reviews even where actions involve significant expansion of sites, increases in effluents, increases in occupational exposures, increases in potential for releases etc. (item (b)(5)). The proposal, would apply if the action concerned, for example, a high level waste repository. We believe this proposal is far too broad.

The Council staff will be pleased to discuss these comments in greater detail with NRC staff and stands ready to assist in completing the consultation process. John Shea in the Council's General Counsel's office is the Council staff contact for the NRC NEPA regulations. His telephone number is 395-4616.

Thank you for considering these views.

Sincerely,

C. Foster Knight,

Acting General Counsel.

Executive Office of the President,
Washington, D.C., October 29, 1979.
Mr. Howard Shapar,
Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C.

Dear Mr. Shapar: On September 26, 1979, we wrote to you to convey our preliminary views on the Commission's draft regulations for the implementation of the National Environmental Policy Act. In recent weeks we have continued to assess those regulations. This letter contains additional preliminary views which we hope will assist the Commission in promulgating final NEPA procedures. As stated in our letter of September 26, 1979, these views do not substitute for the Council's final review of the Commission's NEPA regulations.

(Draft Proposal, pp. 23-26 and 75) The draft of 10 CFR § 51.22(c)(4) would categorically exclude new agreements and amendments to agreements with States, pursuant to Section 274 of the Atomic Energy Act of 1954, from review in environmental impact statements or environmental assessments. The Council cannot endorse this categorical exclusion as written. The essential fact is that, pursuant to such agreements and amendments, States will and do take actions which, if taken by the Commission directly, would require review in environmental impact statements. The Council believes this is a serious matter since it involves activities including, among others, the licensing of uranium mills and low level waste burial grounds. In support of this exclusion, the NRC staff states that when taking such actions States will be bound to administer certain Commission standards and practices (p. 25). Unfortunately, that procedure, while perhaps worthwhile, does not satisfy the need to assess environmental risks and choose among alternatives, pursuant to the mandates of NEPA. The staff also suggests "that the formal action of amending an agreement, in and of itself, is not only without environmental impact, but . . . is essentially ministerial" (p. 26). We would remind the NRC staff that this type of argument was roundly rejected by the courts in the early days of NEPA. NEPA looks beyond the mere formal execution of documents to the real actions involved.

A categorical exclusion which purported to delegate the Commission's NEPA responsibilities to the Agreement States would, of course, be unlawful. However, this exclusion is even more troublesome in that it would abrogate the NEPA process altogether. While the Commission may perhaps delegate its regulatory functions under the Atomic Energy Act, it may neither delegate nor terminate its responsibilities under NEPA.

Possibly the Commission may approach this problem in some other manner which fulfills the requirements of NEPA while achieving the benefits of Agreements under Section 274 of the Atomic Energy Act. Reexamination of 40 CFR § 1501.5(b) might be useful. In any event, we hope the Commission can devise a lawful and effective mechanism for its needs and we are prepared to explore the problem in discussions with you, if you feel that would be useful.

If you wish to discuss any of the issues raised in this letter or our correspondence of September 26, 1979, please contact me; I am ready to assist you.

Thank you for your consideration of these views.

Sincerely,

John F. Shea III,

Counsel.

[FR Doc. 80-6367 Filed 2-29-80; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 1980-6]

Contributions to and Expenditures by Delegates to National Nominating Conventions

AGENCY: Federal Election Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission publishes for public comment proposed rules to govern the application of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et. seq),* to contributions to and expenditures by delegates to national party nominating conventions. The proposed rules set forth reporting obligations of delegates and delegate committees under the Act as well as the treatment of contributions to and expenditures by delegates and delegate committees.

EFFECTIVE DATES: Comments must be received by April 2, 1980.

ADDRESS: Address comments to Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, (202) 523-4143.

SUPPLEMENTARY INFORMATION: On September 5, 1979, the Commission published an Advance Notice of Proposed Rulemaking on Contributions to and Expenditures by Delegates to National Party Nominating Conventions (44 FR 51962). The proposed rules being published today incorporate suggestions received in response to the ANPRM as well as provisions required by the enactment on January 8, 1980, of the 1979 Amendments to the Federal Election Campaign Act of 1971 (Pub. L. 96-187).

Under the regulations being proposed today, contributions to a delegate for the purpose of furthering that delegate's selection are not subject to the contribution limitations of 2 U.S.C. 441a(a)(1) and (2), but such contributions would still count against the individual contributor's aggregate contribution limit of $25,000 per calendar year under 2 U.S.C. 441a(3). Also, contributions to a delegate by the campaign committee of a presidential candidate receiving public financing would count against that candidate's expenditure limitations.

Expenditures by delegates from their personal funds to defray the costs of advocating their own selection are not limited or reportable by the proposed rules. In addition, expenditures by delegates to defray the cost of certain campaign materials, such as pins, bumper stickers, handbills, brochures, posters and yard signs, which advocate the delegate's selection and also mention a presidential candidate are not limited provided the material is used in connection with volunteer activity. However, expenditures by delegates to defray costs incurred in the use of broadcasting, newspapers, magazines, direct mail or similar types of general public communication or political advertising which advocate the delegate's selection and which also mention a presidential candidate may result in an expenditure which would be either chargeable against the Presidential candidate's expenditure limits, an in-kind contribution by the delegate to the candidate, or an independent expenditure reportable by the delegate. Under the proposed rules,

administrative expenses incurred by State and local party committees in connection with the sponsoring of conventions and caucuses are not reportable under the Act. In addition, the proposed rule defines the term "delegate committee" and sets out registration and reporting requirements for such committees.

The proposed rules provide that contributions to and expenditures made by delegates or by delegate committees are subject to the prohibitions of 2 U.S.C. 441b and 441e.

PART 100—SCOPE AND DEFINITIONS

§ 100.14 [Amended]

It is proposed to amend 11 CFR 100.14(a) by addition of the following subparagraph (5):

(a) * * *

(5) *Delegate Committees.* A delegate committee is a political committee which receives contributions or makes expenditures for the purpose of influencing the selection of delegates to a national nominating convention. The term "delegate committee" includes a group of delegates, a group of individuals seeking selection as delegates and a group of individuals supporting delegates.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

§ 110.5 [Amended]

It is proposed to amend 11 CFR 110.5 by addition of the following paragraph:

* * * * *

(d) Contributions to delegates or delegate committees count against the individual contributor's aggregate annual contribution limit in 11 CFR 110.5(a).

It is proposed to amend 11 CFR Part 110 by addition of the following section:

§ 110.14 Contributions to and expenditures by delegates.

(a) *Scope.* 11 CFR 110.14 applies to all levels of a delegate selection process and sets forth the prohibitions, limitations and requirements applicable under the Act to delegates.

(b) *Delegate.* "Delegate" means an individual who becomes or seeks to become a delegate, as defined by State law or party rule, to a national nominating convention or to a State, district, or local convention, caucus or primary which is held to select delegates to a national nominating convention.

(c) *Contributions to delegates.* Contributions to a delegate for the purpose of furthering that delegate's selection are not subject to the limitations of 11 CFR 110.1 and 2 U.S.C. 441a(a) (1) and (2); nor are such contributions reportable under 11 CFR Part 104 or 2 U.S.C. 434. However, if an individual makes such a contribution, it counts against that individual's aggregate contribution limit of $25,000 in a calendar year under 11 CFR 110.5 and 2 U.S.C. 441a(a)(3). Contributions made to a delegate by the campaign committee of a presidential candidate count against that presidential candidate's expenditure limitation under 11 CFR 110.8(a) and 2 U.S.C. 441a(b).

(d) *Expenditures by Delegates.* (1) Expenditures by a delegate from contributions to him or her, or from personal funds, to defray costs incurred to advocate only his or her own selection are neither limited under 11 CFR Part 110 and 2 U.S.C. 441a nor reportable under 11 CFR Part 104 or 109 and 2 U.S.C. 434. Such costs may include but are not limited to: Costs of travel and subsistence during the delegate selection process, including the national nominating convention, and the cost of any communications advocating only a delegate's selecton. (For expenditures made by delegates to defray the cost of campaign materials which advocate their own selection and make reference to a presidential candidate, see 11 CFR 110.14(d)(2)). Expenditures made in accordance with 11 CFR 110.14(d)(1) are not chargeable against the expenditure limits of any presidential candidate under 11 CFR 110.8(a) or 2 U.S.C. 441a(b).

(2)(i) Expenditures by a delegate from contributions to him or her or from personal funds of the costs of certain campaign materials (such as pins, bumper stickers, handbills, brochures, posters and yard signs) which advocate the selection of a delegate and which also include information on or reference to any candidate for the office of President are not subject to limitation under 11 CFR 110.1(a) and 2 U.S.C. 441a(a)(1) and (2), need not be reported under 11 CFR Part 104 and 2 U.S.C. 434, and do not count against the expenditure limitation of any presidential candidate under 11 CFR 110.8(a) and 2 U.S.C. 441a(b): *Provided,* That:

(A) Such materials are used in connection with volunteer activities; and

(B) Such expenditures are not for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising.

(ii) Expenditures by a delegate from contributions to him or her or from personal funds for costs incurred in the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising which advocates the selection of a delegate and which also includes information on or reference to a candidate for the office of president are not limited or reportable unless: Such expenditures are contributions in-kind to such presidential candidate and chargeable to his or her expenditure limitation as provided in paragraph (d)(2)(i)(A) of this section; or such expenditures are independent expenditures as provided in paragraph (d)(2)(i)(B) of this section.

(A)(*1*) Such expenditures are in-kind contributions to the presidential candidate under 2 U.S.C. 441a(a)(7) if the delegate makes such expenditures in cooperation, consultation, or concert with, or at the request or suggestion of the presidential candidate, his or her authorized political committee(s), or their agents. Such an in-kind contribution is subject to the contribution limitations of 11 CFR 110.1 and 2 U.S.C. 441a(a)(1) and must be reported by the presidential candidate's authorized committee(s) as a contribution under 11 CFR Part 104 and 2 U.S.C. 434. Except as provided in paragraph (d)(2)(ii)(*2*) of this section, such in-kind contributions are chargeable against the presidential candidate's expenditures limitation under 11 CFR 110.8(a) and 2 U.S.C. 441a(b).

(*2*) If the delegate finances the dissemination, distribution or republication, in whole or in part, of any broadcast or materials prepared by the presidential candidate, his or her authorized committee(s) or their agents, such expenditure shall not be chargeable against that candidate's expenditure limitations unless it was made with the cooperation, or with the prior consent of, or in consultation with, or at the request or suggestion of, the candidate or any authorized agent or committee thereof.

(B) Such expenditures are independent expenditures under 11 CFR 109.1(a) and 2 U.S.C. 431(17), if such expenditures expressly advocate the election of a clearly identified presidential candidate and are not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, the presidential candidate or authorized committee of such candidate. Such independent expenditures are not limited but must be reported by the delegate in accordance with 11 CFR 109.2. and 2 U.S.C. 434(c) and are

otherwise subject to the requirements of 11 CFR Part 109.

(C) Only that portion of such expenditures allocable to the presidential candidate shall be considered an in-kind contribution to the candidate and an expenditure chargeable against the candidate's expenditure limitations. Only that portion of an independent expenditure allocable to the presidential candidate shall be reportable.

(D) For purposes of 11 CFR 110.14(d)(2), "direct mail" means any mailing(s) by commercial vendors or any mailing(s) made from lists which were not developed by the delegate.

(e) *Delegate Committees.* Delegate committees which qualify as political committees under 11 CFR 100.14 and 2 U.S.C. 431(4) must register with the Commission pursuant to 11 CFR Part 102.1 and 2 U.S.C. 433, and file reports of contributions received and expenditures made pursuant to 11 CFR Part 104 and 2 U.S.C. 434. Contributions to delegate committees are subject to limitation under 11 CFR 110.1 and 2 U.S.C. 441a(a). Contributions made by delegate committees are subject to limitations under 11 CFR 110.1 and 2 U.S.C. 441a(a).

(f) *Prohibited Sources.* All contributions to and expenditures by any delegate or by a delegate committee are subject to the prohibitions of 11 CFR 110.4(a), Part 114 and 2 U.S.C. 441b and 441e.

(g) *Administrative Expenses of Party Committee.* Administrative expenses incurred by local, county, district or State party committees in connection with the sponsoring of conventions or caucuses during which delegates to a national nominating convention are selected, are not reportable under the Act; however, such expenses may not be paid from contributions or expenditures which are prohibited under 11 CFR 110.4(a) and Part 114 and 2 U.S.C. 441b and 441e.

Dated: February 26, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-6613 Filed 2-29-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Assessments; Notice of Proposed Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed revision of regulation.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC proposes to revise Part 327 of its regulations. Part 327 pertains to the assessments that are paid by insured banks to FDIC for deposit insurance. The proposed revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

DATE: Comments must be received on or before May 2, 1980.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding this proposal to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. Comments may be hand delivered to and reviewed in Room 6108 at the same address between 8:30 a.m. and 5:00 p.m. during work days.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, (202) 389-4237.

SUPPLEMENTARY INFORMATION: In the proposed revision to Part 327, the following changes have been made:

1. A new "Purpose and scope" section has been added at the beginning of the regulation. It specifically states that the part applies to insured branches of foreign banks.

2. The provisions explaining the methods for reporting assessment base additions for unposted credits and deductions for unposted debits have been simplified to eliminate outdated and redundant provisions. Also, the definitions for the terms "unposted credit" and "unposted debit" have been expanded for clarification purposes.

3. The "Classification of deposits" section has been substantially reduced by using references to definitions in other sections of FDIC's regulations rather than restating the full definition in Part 327.

4. An explanation has been added to the "Time of payment" section to indicate what constitutes the timely payment of the assessment that is required to be paid to FDIC.

The changes would not have any significant impact on insured banks. In particular, they would not affect the competitive status or the recordkeeping and reporting requirements of insured banks.

Therefore, no cost/benefit analysis has been undertaken. Further, it was concluded that the purposes of the regulation could not be accomplished through the use of a flexible regulatory approach that would distinguish between banks on the basis of size.

Accordingly, the FDIC Board of Directors does hereby propose to revise Part 327 of Title 12 of the Code of Federal Regulations as set forth below.

Part 327—Assessments

Sec.

Authority: Secs. 7-9, Pub. L. 797, 64 Stat. 877-882 as amended by Secs. 7, 8, Pub. L. 88-671, 74 Stat. 546-551 and Sec. 304, Pub. L. 95-630, 92 Stat. 3677 (12 U.S.C. §§ 1817-1910)

§ 327.01 Purpose and scope.

This part sets forth the rules for: (a) reporting unposted credits and unposted debits; (b) the classification of deposits; (c) the payment of assessments by banks whose insured status has terminated; and (d) the time for payment of the semiannual assessment required by section 7 of the Federal Deposit Insurance Act. This part applies to any insured bank or insured branch of a foreign bank. Deductions from the assessment base of an insured branch of a foreign bank are set our in Part 346.

§ 327.02 Reporting of assessment base additions for unposted credits and deductions for unposted debits.

(a) *Definitions.* (1) The term "unposted credit" as used in this section means any deposit received in any office of the bank for deposit in any other office of the bank located in any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Islands, or the Virgin Islands, *except* those which have been included in the total deposits in the report of condition or which have been offset in the report of condition by an equal amount of cash items in its possession drawn on itself (on the same type of deposits as those offset) and not charged against deposit liabilities at the close of business on the date of the report of condition.

(2) The term "unposted debit" as used in this section means a cash item in the reporting bank's possession that is drawn on the bank and immediately chargeable, but not yet charged, against the bank's deposit liabilities at the close of business on the date of the report of condition. The following items are excluded: (i) cash items drawn on other banks, (ii) overdrafts and nonsufficient fund (NSF) items, (iii) cash items

returned unpaid to the last endorser for any reason and (iv) drafts and warrants that are "payable at" or "payable through" the reporting bank for which there is no written authorization on file at the bank or State statute allowing the bank at its discretion to charge the items against the deposit accounts of the drawers.

(3) The above terms "unposted credit" and "unposted debit" do not include items which have been reflected in deposit accounts on the general ledger and in the report of condition, although they have not been credited or debited to individual deposit accounts.

(b) *Methods of reporting unposted credits and unposted debits.*

(1) Each insured bank shall report unposted credits in reports of condition for addition to the assessment base in the following manner:

(i) If the bank records show the total actual amount of unposted credits segregated into demand deposits and time and savings deposits, the bank must report the segregated amounts for addition to demand deposits and time and savings deposits, respectively.

(ii) If the bank records show the total actual amount of unposted credits but do not segregate the amount as stated in subparagraph (i) and if the bank does not elect to segregate the credits on the basis of the experience factors, the bank must report the total actual amount of the unposted credits for addition to time and savings deposits.

(iii) If the bank records show the total actual amount of the unposted credits, but do not segregate the amount as stated in subparagraph (i) and if the bank elects to segregate the credits on the basis of the experience factors, the bank must report the segregated amounts for addition to demand deposits and time and savings deposits.

(iv) If the bank records do not show the actual amount of unposted credits (either in total or in segregated amounts), the amount of the unposted credits must be determined by experience factor or factors and reported in a total unsegregated amount for addition to time and savings deposits or in segregated amounts for addition to demand deposits and time and savings deposits.

(2) Unposted debits may be reported in the same manner for deduction from the assessment base, except that unsegregated amounts may be reported for deduction only from demand deposits.

(c) *Bank reporting on basis of experience factor.* Upon written approval by the Corporation, an insured bank may use either (i) separate factors for computing the additions or deductions to demand deposits and time and savings deposits; or (ii) a single factor for computing additions to be made in total amount to time and savings deposits or for computing deductions to be made in total amount from demand deposits. When a single factor is used, the additions or deductions are required to be made to or from the type of deposit giving the lesser advangage to the bank in taking the 16⅔ percent deduction from demand deposits and the 1 percent deduction from time and savings deposits.

(d) *Procedure for obtaining approval.* Each insured bank which intends to use an experience factor in computing the amounts of unposted credits or unposted debits shall state its intention in writing to the Corporation. Any bank becoming an insured bank whose records do not show amounts of unposted credits and unposted debits and which proposes to report such items for assessment purposes by means of experience factors, shall so inform the Corporation within thirty (30) days after it becomes an insured bank.

Upon receipt of such notice, the Corporation will furnish to the bank a form for submitting to the Corporation the computations used in determining the experience factors. After the experience factors have been approved by the Corporation, the bank shall use the factors in reporting unposted credits or debits until new experience factors are established pursuant to paragraph (h) or (i) of this section or until the bank's accounting methods are changed to show actual amounts from day to day.

(e) *Computing and using experience factors.* (1) The reporting bank may use either the following initial experience factors in reporting unposted credits for addition to the assessment base for two years:

(i) *Separate experience factors for additions to demand deposits and to time and savings deposits.* The factor for each semiannual period for:

(A) Demand deposits shall be the percentage obtained by dividing the amount of unposted credits on the first business day of February or August which are creditable to demand deposits by the amount of total demand deposits as shown on the books of the bank at the close of business on the same day; and

(B) Time and savings deposits shall be the percentage obtained by dividing the amount of unposted credits on the first business day of February or August which are creditable to time and savings deposits by the amount of total time and savings deposits as shown on the books of the bank at the close of business on the same day.

Until two years' experience has been obtained, the bank shall determine on the first business day of February or August of each year the actual amount of unposted credits segregated into demand deposits and time and savings deposits. For assessment purposes, there shall be separately stated in each report of condition for addition to demand deposits the amount obtained by multiplying the amount of total demand deposits shown in the report of condition by the factor for demand deposits for such semiannual period, and for addition to time and savings deposits the amount obtained by multiplying the amount of total time and savings deposits shown in each report of condition by the factor for time and savings deposits for such semiannual period.

(ii) *A single experience factor.* The factor for each semiannual period shall be the percentage obtained by dividing the amount of all unposted credits on the first business day of February or August by the total deposits as shown on the books of the bank at the close of business on the same day. Until two years' experience has been obtained, the bank shall determine on the first business day of February or August of each year the actual amount of all unposted credits. There shall be separately stated in each report of condition for addition to time and savings deposits for assessment purposes, the amount obtained by multiplying the amount of total deposits shown in the report of condition by the factor for such semiannual period. When two years' experience has been obtained, a permanent experience factor shall be computed and used for the ninth and subsequent reports of condition. This factor shall be the percentage obtained by dividing the aggregate amount of the unposted credits by the aggregate amount of the deposits which were used in establishing each factor for the four preceding semiannual periods.

(2) The reporting bank may use the same procedure outlined in subparagraph (e)(1) for establishing experience factors in reporting unposted debits for deduction from the assessment base except (i) the terms "deduction", "chargeable", and "debit" would be substituted for the terms "addition", "creditable", and "credit"; and (ii) in developing the single experience factor, if the amount of the deductions computed exceeds the amount of the demand deposits, the excess may be deducted from time and savings deposits.

(3) When it is impractical to segregate the amounts of unposted credits or debits outstanding in a "branch clearings" account or similar account or to segregate the unposted credits or debits into demand deposits and time and savings deposits in computing a factor or factors under this paragraph, the bank may apply to the Corporation for permission to compute the amounts by other methods.

(f) *Experience factors for newly insured banks.* A newly insured bank may determine and use its experience factors as provided in paragraph (e), except that in preparing its first report of condition for assessment purposes it shall determine the actual amounts of unposted credits, debits, and deposits on a day designated by the Corporation, instead of on the first business day of February or August.

(g) *Mergers, consolidations, deposit assumptions, and conversions.* The continuing or resulting bank in a merger, consolidation or deposit assumption transaction, involving one or more banks which used an experience factor, shall use new experience factors based on the combined experience of the participating banks for the two-year period prior to such transaction or may establish a new factor or factors in accordance with paragraph (e) of this section. A bank resulting from the conversion of a bank shall continue to use the experience factors of the converted bank.

(h) *Bank establishing new experience factors.* A bank may apply to the Corporation for permission to establish new permanent factors in the manner provided in subparagraphs (1) and (2) of paragraph (e) of this section. Until the new permanent factors have been determined and approved in writing by the Corporation, the bank shall continue to use its existing factors.

(i) *Corporation requiring new experience factors.* The Corporation at any time may require a bank to establish new factors, and for this purpose may designate a day or days and a period or periods other than those specified, for the determination of deposits and the actual amounts of unposted credits or unposted debits, or both. After the new factors have been computed by the bank or the Corporation and have been approved in writing by the Corporation, the bank shall use the new factors for all subsequent reports of condition.

(j) *Notice to Corporation of changes in accounting methods.* If a bank changes its accounting procedures from those used when its experience factors were established and *this causes an increase or decrease in the amount of unposted credits or unposted debits, it shall promptly give written notice to the Corporation of the change.*

§ 327.03 Classification of deposits.

(a) The deposits that are required to be reported in the reports of condition under section 7 of the Federal Deposit Insurance Act (12 U.S.C. § 1817) shall be segregated into demand deposits and time and savings deposits.

(b) For the purpose of the reports of condition and for the computation of assessments as provided in subsection (b) of section 7 of the Act (12 U.S.C. § 1817i), the terms "time deposits", "savings deposits", and "demand deposits" shall have the same meaning as those provided in § 329.1, except that deposits accumulated for the payment of personal loans, which represent actual loan payments received by the bank from borrowers and accumulated by the bank in hypothecated deposit accounts for payment of the loans at maturity, shall not be reported as deposits on the report of condition. The deposit amounts covered by the exception are to be deducted from the loan amounts for which these deposits have been accumulated and assigned as pledged to effectuate payment. *Time and savings deposits that are pledged as collateral to secure loans are not deposits accumulated for the payment of personal loans and are to be reported in the same manner as if they were not securing a loan.*

§ 327.04 Payment of assessments by banks whose insured status has terminated.

(a) *Liability for assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank, the assumed deposits, for assessment purposes, shall be deposit liabilities of the assuming bank and shall cease to be deposit liabilities of the bank whose deposits are assumed.

(b) *Payment of assessments by bank whose deposits are assumed.* When the deposit liabilities of an insured bank are assumed by another insured bank, the insured bank whose deposits are assumed shall file a final certified statement, as provided in § 304.3 (u) and (v), and shall pay to the Corporation the normal assessment thereon. If the deposits of the terminating bank are assumed by a newly insured bank, the terminating bank is not required to file certified statements or pay any assessment upon the deposits so assumed after the semiannual period in which the assumption occurs.

(c) *Payment of assessments by assuming bank on assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank and the assuming bank agrees to file the certified statement which the terminating bank is required to file, the filing of the certified statement and the payment of the assessment on the deposits by the assuming bank shall satisfy the terminating bank's obligations in this regard if (1) the requisite notice of assumption, as provided in Part 307 of this chapter, is given to the depositors of the terminating bank, and (2) the certified statement is filed separately from that required to be filed by the assuming bank.

(d) *Resumption of insured status before insurance of deposits ceases.* If a bank whose insured status has been terminated under section 8(a) of the Federal Deposit Insurance Act is permitted by the Corporation to continue or resume its status as an insured bank before the insurance of its deposits has ceased, the bank will be deemed, for assessment purposes, to continue as an insured bank and must thereafter furnish certified statements and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.7 of this chapter.

(e) *Payment of assessments by bank whose deposits are not assumed.* (1) When the deposit liabilities of an insured bank are not assumed by another insured bank, the terminating bank shall continue to file certified statements and pay assessments for the period its deposits are insured, as provided by the Federal Deposit Insurance Act. It shall not be required to file further certified statements or to pay further assessments after the bank has paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the semiannual period in which its deposit liabilities are paid in full, and after it, under applicable law, has ceased to have authority to transact a banking business and to have existence, except for the purpose of, and to the extent permitted by law for, winding up its affairs.

(2) When the deposit liabilities of the bank have been paid in full, the bank shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment. When the bank has unclaimed deposits, the certification shall further state the amount of the unclaimed deposits and the disposition made of the funds to be held to meet the claims. For assessment purposes, the following will be

considered as payment of the unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay the unclaimed and unpaid deposits to the public official authorized by law to receive the same; or

(ii) If no law provides for the transfer of funds to a public official, the transfer of cash funds or compensatory assets to an insured bank in an amount sufficient to pay the unclaimed and unpaid deposits in consideration for the assumption of the deposit obligations by the insured bank. The terminating bank shall give sufficient advance notice of the intended transfer to the owners of the unclaimed deposits to enable the depositors to obtain their deposits prior to the transfer. The notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise the depositors of the liquidation of the bank, request them to call for and accept payment of their deposits, and state the disposition to be made of their deposits if they fail to promptly claim the deposits.

If the unclaimed and unpaid deposits are disposed of as provided in subparagraph (e)(2)(i), a certified copy of the public official's receipt issued for the funds shall be furnished to the Corporation. If the unclaimed and unpaid deposits are disposed of as provided in subparagraph (e)(2)(ii), an affidavit of the publication and of the mailing of the notice to the depositors, together with a copy of the notice, and a certified copy of the contract of assumption shall be furnished to the Corporation.

(3) The terminating bank shall advise the Corporation of the date on which the authority or right of the bank to do a banking business has terminated and the method whereby the termination has been effected (*i.e.*, whether the termination has been effected by the surrender of the charter, the cancellation of its authority or license to do a banking business by the supervisory authority, or otherwise).

§ 327.05 Time of payment.

Each insured bank shall pay to the Corporation the amount of the semiannual assessment due to the Corporation, as shown on its certified statement, at the time the statement is required to be filed under section 7(c) of the Federal Deposit Insurance Act. Certified statements shall be considered to have been filed in a timely manner if they are postmarked on or before the last day of the first month of the semiannual period for which the certified statements are being filed. Accordingly, certified statements that are based on the deposits in the September 30 and December 31 reports of condition must be postmarked no later than January 31 and certified statements based on the deposits in the March 31 and June 30 reports of condition must be postmarked no later than July 31.

By order of the Board of Directors February 25, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-6523 Filed 2-29-80; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-5-AD]

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM)

SUMMARY: It is proposed to adopt an Airworthiness Directive (AD) which would require replacement and rerouting of wire bundles located in close proximity to the air flow multiplier hot air duct located in the air conditioning bay on certain Boeing Model 727 airplanes. Wire insulation failures due to high ambient temperatures have caused cabin depressurization, fuel pump stoppage and an engine flame out. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspection and, as necessary, replacement of damaged wires with high temperature wires, in conjunction with rerouting of specified wire bundles.

DATES: Comments must be received on or before May 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-5—AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Lium, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION: Wire bundle insulation overheat damage has been found in the area of the air flow multiplier hot air duct located in the air conditioning bay. One operator reported that the insulation damage resulted in wires shorting out, causing cabin depressurization. One operator reported two instances of the No. 3 fuel tank forward boost pump circuit breaker tripping, one instance of Nos. 2 and 3 fuel boost pump stoppage and one instance of engine flame out due to the fuel shutoff valve being driven closed because of shorted wires. Another operator reported one instance of the No. 2 fuel tank forward boost pump circuit breaker tripping.

It has been determined that the wire bundle insulation overheat damage results from continued exposure to temperatures near the maximum rating for the wire over an extended period time.

Rerouting of wire bundles per this AD will separate the Nos. 1 and 3 fuel shutoff valves circuit wire bundles at common attach point locations and provide more clearance from the hot air duct and reduce the possibility of wire bundle overheat damage.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing data for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available both before and after the closing date for comments in the rules docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80-NW-5-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive: BOEING: Applies to all Boeing 727 airplanes Line No. 0001 through 1511. Compliance required as indicated. Accomplish the following:

Within 2,000 hours time-in-service or eight (8) months after the effective date of this AD, whichever comes first, unless already accomplished, inspect, replace as necessary, and reroute wire bundles in the air conditioning bay in accordance with Boeing Service Bulletin 727-21-88. Rev. 1, dated November 30, 1979, or a later FAA approved revision, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on February 19, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 80-6306 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-5]

Proposed Alteration of Transition Area; Galesburg, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Galesburg, Illinois to accommodate revisions to several instrument approach procedures into the Galesburg and Monmouth Airports. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-5, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately 3 miles beyond that now depicted. The control zone airspace will be altered by moving the Northeast extension approximately two miles east from that now depicted to accommodate a revised procedure to Runway 20 at Galesburg Airport. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for these procedures may be established below the floor of the 700 foot controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedures which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-5, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Galesburg, Illinois. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 CR 356 and 45 FR 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsections 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

Galesburg, Ill.

"That airspace upward from 700 feet above the surface within a seven (7) mile radius of the Galesburg Municipal Airport, Galesburg, Illinois (latitude 40°56'24" N., longitude 90°25'46" W.); within eight (8) miles each side of the Galesburg VOR 031° radial extending from the VOR to twelve (12) miles north of VOR; within eight (8) miles each side of the Galesburg VOR 199° radial extending from the VOR to twelve (12) miles south of the VOR; within a seven (7) mile radius of the Monmouth (Illinois) Municipal Airport (latitude 40°55'42" N., longitude 90°38'06" W.).

In Section 71.171 (45 FR 356) the following control zone is amended to read:

Galesburg, Ill.

Within a five (5) mile radius of the Galesburg Municipal Airport, Galesburg, Illinois (latitude 40°56'24" N.; longitude 90°25'46" W.); within two (2) miles each side of the Galesburg VOR 031° radial extending from the five (5) radius zone to eight (8) miles north of the VOR; and within two (2) miles each side of the Galesburg VOR 199° radial extending from the five (5) mile radius zone to eight (8) miles southwest of the VOR. The Control Zone shall be effective during the times established by a Notice to Airmen and published in the Airport/Facility Directive."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

The Federal Aviation Administration has determined that this document

involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-5, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 15, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-6311 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-8]

Proposed Designation of Transition Area; Savanna, Ill.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate controlled airspace near Savanna, Illinois, to accommodate a new Non-Directional Radio Beacon (NDB) instrument approach into Stransky Memorial Airport, Savanna, Illinois, established on the basis of a request from the Stransky Memorial Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditons.

DATES: Comments must be received on or before March 26, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-8, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflects the area of the instrument procedure which will enable other aircraft to circumavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-8, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 26, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Savanna, Illinois. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 F.R. 445) the following transition area is added:

Savanna, Ill.

That airspace extending upward from seven hundred (700) feet above the surface, within a 9 mile radius of the Stransky Memorial Airport, Savanna, Illinois, (latitude 42°03'00"N, longitude 90°07'00"N).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).)

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-8, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 10, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6313 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-GL-70]

Proposed Alteration of Transition Area; Logansport, Ind.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Logansport, Indiana to accommodate a new Non-Directional Radio Beacon (NDB) Runway 9 instrument approach procedure into the Logansport Municipal Airport, Logansport, Indiana established on the basis of a request from the airport officials to provide that airport with an additional instrument approach procedure. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 26, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-70, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately 3 miles beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7 Great Lakes Region, Rules Docket No. 79-GL-70, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 26, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and affer the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Logansport, Indiana. Subpart C of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

Logansport, Ind.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Logansport Municipal Airport, Logansport, Indiana (latitude 40°42'35"N., longitude 86°22'45"W).

(section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-70, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 10, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6305 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-GL-4]

Proposed Alteration of Transition Area; Albert Lea, Minn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Albert Lea, Minnesota to accommodate a revised Very High Frequency Omnidirectional Range (VOR) Runway 16 instrument approach procedure into the Albert Lea Municipal Airport, Albert Lea, Minnesota. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-4, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately 3 miles beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-4, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Albert Lea, Minnesota. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 F.R. 445) the following transition area is amended to read:

Albert Lea, Minn.

That airspace extending upward from 700 feet above the surface within a 8.5 mile radius of the Albert Lea, Airport. (latitude 43°40'52" N, longitude 93°22'04" W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-4, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 14, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6316 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-3]

Proposed Designation of Transition Area; Dodge Center, Minn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to designate controlled airspace near Dodge Center, Minnesota to accommodate a new Very High Frequency Omnidirectional Range (VOR-A) instrument approach into Dodge County Municipal Airport, Dodge Center, Minnesota established on the basis of a request from the Dodge County Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-3, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-3, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Dodge Center, Minnesota. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.81 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.81 (45 FR 445) the following transition area is amended to read:

Dodge Center, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Dodge County Municipal Airport, Dodge Center, Minnesota (Latitude 44°01'15"N; Longitude 92°50'00"W); excluding that portion which overlies the Rochester, Minnesota transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-3, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 14, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6315 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-GL-63]

Proposed Alteration of Transition Area; Rochester, Minn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Rochester, Minnesota to accomodate a revised Instrument Landing System (ILS) Runway 13 instrument approach procedure into the Rochester Municipal Airport, Rochester, Minnesota. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before March 26, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-63, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately two miles beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-63, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 26, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Rochester, Minnesota. Subpart G of Part 71 was published in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

Rochester, Minn.

That airspace extending upward from 700 feet above the surface within a 19½ mile radius of the Rochester Municipal Airport, Rochester, Minnesota (latitude 43°54'32" N, longitude 92°29'47" W); and within 4½ miles southwest and 9½ miles northeast of the Rochester ILS localizer southeast course, extending from the 19½ mile radius to 24 miles southeast of the airport; and within 5 miles each side of the Rochester ILS localizer northwest course, extending from the 19½ mile radius to 22½ miles northwest of the airport.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-63, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 10, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6303 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-GL-6]

Proposed Designation of Transition Area; London, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to designate controlled airspace near London, Ohio, to accommodate a new Non-Directional Radio Beacon (NDB) Runway 8 instrument approach into Madison County Airport, London, Ohio, established on the basis of a request from the local Airport Officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-6, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the contolled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In additon, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-6, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near London, Ohio. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 FR 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 FR 445) the following transition area is amended to read:

London, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of Madison County Airport, London, Ohio (latitude 39°56'03"N longitude 83°27'59"W) within 3 miles each side of the 257° bearing from the Madison County Airport extending from the 5.5 mile radius area to 8 miles southwest of the Airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-6, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 14, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6312 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-68]

Proposed Alteration of Transition Area; Van Wert, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Van Wert, Ohio to accommodate a new Non-Directional Radio Beacon (NDB) Runway 9 instrument approach procedure into the Van Wert Municipal Airport, Van Wert, Ohio established on the basis of a relocation of the radio beacon from five miles west of the airport to a site on the Airport. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-68, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division,

AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet above the surface for a distance of approximately three miles west of that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-68, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Van Wert, Ohio. Subpart G of Part 71 was published in the Federal Register on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In Section 71.181 (45 F.R. 445) the following transition area is amended to read:

Van Wert, Ohio

That airspace extending upward from 700 feet above the ground within a 5 mile radius of Van Wert Municipal Airport, Van Wert, Ohio (latitude 40°51'51" N., longitude 84°36'36" N) within 3 miles either side of the 271° bearing from the airport extending from the five mile radius area to 8 miles west of the airport.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-68, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 15, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-6304 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-GL-2]

Proposed Designation of Transition Area; Siren, Wis.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to designate controlled airspace near Siren, Wisconsin to accommodate a new Non-Directional Radio Beacon (NDB) Runway 23 instrument approach into Burnett County Airport, Siren, Wisconsin established on the basis of a request from the local Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before March 31, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 80-GL-2, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 80-GL-2, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before March 31, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NRPMs should also request a copy of Advisory Circular No. 11-2 which describe the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Siren, Wisconsin. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In section 71.181 (45 F.R. 445) the following transition area is added:

Siren, Wis.

That airspace extending upward from 700 feet above the surface within a 8.5 mile radius of the Burnett County Airport, Siren, Wisconsin (latitude 45°49'30"N; longitude 92°22'00").

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61))

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-2, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on February 14, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-6314 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-80-766]

Change in Provisions and Characteristics of Debentures

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would change the manner in which debentures are issued by the Treasury Department on behalf of HUD. This change would involve the elimination of denominational debenture certificates. It is proposed that these certificates be replaced by a "book entry" method of issuing debentures.

DATES: COMMENTS DUE: May 2, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: T. J. O'Connor, Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Room 2202, Telephone 202-755-6310 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under existing regulations, "debentures are issued in registered form and in denominations of $50, $100, $500, $1,000, $5,000 and $10,000". The Treasury Department acts as agent for HUD in the issue of debentures, upon request from HUD, in settlement of certain claims for insurance benefits. This is presently a manual operation for the Treasury Department.

The Treasury Department has requested that in lieu of issuing debentures in the form of certificates, that it be permitted to use the "book entry" method and furnish the mortgagees a statement of account evidencing ownership of debentures registered on the Treasury Department's records. The debentures under this method would still be negotiable and changes in ownership would be accomplished by a separate assignment form which would be processed to the Treasury Department to credit the seller's account and debit the purchaser's account.

The Treasury Department has indicated that conversion to the "book entry" method of handling debentures for HUD would permit faster, less expensive processing with no adverse impact on transferability, and eliminates many of the security measures now required for the handling and storage of debentures.

The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, it is proposed that 24 CFR, Part 200, be amended as follows. Paragraph (b) of § 200.157 is revised to read as follows:

§ 200.157 Provisions and characteristics of debentures.

* * * * *

(b) *Registration, denomination and execution.* [90 days after publication of final rule] Before debentures were issued in registered form and in denominations of $50, $100, $500, $1,000, $5,000 and $10,000. Debentures were signed by the Federal Housing Commissioner by facsimile signature and imprinted with the seal of the Federal Housing Administration. Debentures authorized for issue after [90 days after publication of final rule] shall be issued by the U.S. Treasury Department, HUD's Agent, in registered form using the "book entry" method. The U.S. Treasury Department shall issue a statement of account to the mortgagee showing its ownership of debentures as recorded on the books of the U.S. Treasury Department. All references to "debentures" in other parts of these regulations shall be construed to include debentures issued under both methods—denominational bonds, before [90 days after publication of final rule], and "book entry" disregarding denominations, after [90 days after publication of final rule].

* * * * *

(Sec. 2, 48 Stat. 1246, as amended; (12 U.S.C. 1701, (et seq)).

Issued at Washington, D.C., on January 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-6483 Filed 2-29-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 812

[Docket No. R-80-772]

Definition of Family and Other Related Terms; Occupancy by Single Persons

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: In accordance with statutory amendments, HUD is proposing to amend the regulations limiting to 10 percent the number of units within the area under the jurisdiction of a public housing agency which may be occupied by single, non-elderly persons made eligible by 24 CFR Part 812. The new ceiling would be 15 percent.

DATE: Comment Due Date: May 2, 1980.

ADDRESS: Interested persons are invited to submit written comments to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Edward C. Whipple, Chief, Rental and Occupancy Branch, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-5850 (This is not a toll-free number.)

This proposed rule would implement the amendments to Section 3(2)(D) of the United States Housing Act of 1937 made by Section 206(c) of the Housing and Community Development Amendments of 1978. The proposed amendment would increase the limitation on the percentage of assisted units that may be occupied by single, non-elderly persons from 10 to 15 percent of the Units within the area under the jurisdiction of a PHA. The percentage limitation is reflected in 24 CFR Sections 812.3(b)(2)(i) and 812.3(f). A technical clarifying change to the formula, has also been proposed in § 812.3(f).

It is not anticipated that the increase of the limitation on occupancy by single, non-elderly persons will result in a significant increase in the number of such persons served by the assisted housing programs. The regulations in both their present and revised forms authorize field offices to approve occupancy by single, non-elderly persons only when projects are being converted to assisted housing, experiencing sustained vacancies or are unsuited for occupancy by the elderly. In addition, the Act and the regulations require that single elderly and displaced individuals be afforded a priority.

As a result, participation by single, non-elderly persons is expected to remain rather low because of the generally high demand for units from the elderly. The increase in the limitation will, however, permit the Department ot respond more effectively in those situations where the conversion of a project would otherwise result in substantial displacement of single persons or where projects have serious vacancies.

Interested persons are invited to submit written comments on this proposed amendment to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 4512 7th Street, S.W., Washington, D.C. 20410. All relevant comments will be considered before adoption of this amendment. A copy of each written communication will be available for public inspection during regular hours at the above address.

HUD has made a Finding of Inapplicability respecting the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 812 is proposed to be amended as follows:

Sections 812.3(b)(2) (i) and (f) are revised to read:

§ 812.3 Authorization to admit single persons.

* * * * *

(b) * * *

(2) * * *

(i) No more than 15 percent of the units in the PHA's Existing Housing Program for which Leases are approved by the PHA are leased by Single Persons, and

* * * * *

(f) Statutory 15 percent limitation pursuant to Section 3(2)(D) of the Act. The number of units authorized by the HUD Field Office to be made available to Single Persons within the area under the jurisdiction of a PHA shall not exceed 15 percent of the difference between the total number of units within the jurisdiction assisted under the Act at the time of the authorization and the number of units under the Existing Housing Program (24 CFR Part 882, Subparts A and B) within the jurisdiction.

(Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., February 22, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-6597 Filed 2-29-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Disclosure of Comments Received From the Administrator of the Environmental Protection Agency (EPA), the Secretary of Agriculture (USDA), and the Heads of Other Federal Agencies on the Mississippi State Program Submitted Under Public Law 95-87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTIONS: Announcement of Public Disclosure of Comments on the Mississippi Program from EPA, USDA, and other Federal Agencies.

SUMMARY: Before the Secretary of the Interior may approve a State program under the Surface Mining Control and Reclamation Act of 1977, the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Farragut Building, 530 Gay Street, SW., Knoxville, Tennessee 37902. Telephone: (615) 637-8060.

Office of Surface Mining, Department of the Interior, Room No. 135, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT:

Mr. John T. Davis, Assistant Regional Director, Office of Surface Mining, Farragut Building, 530 Gay Street, SW., Knoxville, Tennessee 37902. Telephone: (615) 637-8060.

or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior,

1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Mississippi permanent regulatory program submitted by Mississippi for his review on August 2, 1979. See 44 FR 47173-47174 (August 10, 1979), 44 FR 58000-58001 (October 9, 1979), 44 FR 66760-66761 (November 20, 1979). In accordance with 30 CFR 732.13(b)(1), the Mississippi Program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Mississippi Program:

Advisory Council on Historic Preservation.
Council on Environmental Quality.
Department of Agriculture: Agricultural Stabilization and Conservation Service, Forest Service, Science and Education Administration, and Soil Conservation Service.
Department of Energy.
Department of the Interior: Bureau of Indian Affairs, Bureau of Land Management, Bureau of Mines, Bureau of Reclamation, Fish and Wildlife Service, Geological Survey, Heritage Conservation and Recreation Service, and National Park Service.
Department of Labor.
Environmental Protection Agency.
Tennessee Valley Authority.
U.S. Army Corps of Engineers.
Water Resources Council.

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture: Agriculture Stabilization and Conservation Service, and Soil Conservation Service.
Department of Energy.
Department of the Interior: Bureau of Land Management, Bureau of Mines, Bureau of Reclamation, Fish and Wildlife Service, Geological Survey, Heritage Conservation and Recreation Service, and Water and Power Resources Service.
Department of Labor: Mine Safety and Health Administration.
Environmental Protection Agency.

These comments are available for review and copying, during business hours, at the locations listed above under "ADDRESSES."

Dated: February 27, 1980.

Carl C. Close,

Assistant Director, State and Federal Programs.

[FR Doc. 80-6596 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-23]

Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard in cooperation with the Maryland State Highway Administration is considering amending the regulations that govern the operation of the highway drawbridge across Kent Island Narrows, mile 1.0, at Grasonville, Maryland. These amendments would alter the months, days, and hours in which restrictions are imposed on the operation of this drawbridge. This change is being considered because it should improve the flow of vehicular traffic and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 4, 1980.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Chief, Bridge Section, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705 (804-398-6226).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Commander, Fifth Coast Guard District, will evaluate all comments received and decide on a final course of action. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Wayne J. Creed, Project Manager, Fifth Coast Guard District, Aids to Navigation Branch and Lieutenant Cheryl Avery, Project Attorney, Assistant Legal Officer, Fifth Coast Guard District.

Discussion of the Proposed Regulations

Action to amend these regulations is being considered because the present regulations restrict marine traffic with little or no benefit to vehicular traffic. Present regulations impose seasonal restrictions on the operation of the drawbridge from May 1 to September 30. Principally, these permit openings at four fixed intervals spaced two hours apart on weekends and holidays (12 noon, 2:00 p.m., 4:00 p.m., and 6:00 p.m.). From 6:00 a.m. to 9:00 p.m. on weekdays, and both 6:00 a.m. to 10:00 a.m. and 8:00 p.m. to 9:00 p.m. on weekends and holidays, the drawbridge is required to open on signal. From 9:00 p.m. to 6:00 a.m. it is not required to open at all.

The proposal would extend for an additional month the period in which seasonal restrictions are in effect, allowing them to run from May 1 to October 31. It would also impose these restrictions every day of the week rather than weekends and holidays alone. The four openings scheduled two hours apart would be replaced by openings every hour on the hour from 7:00 a.m. to 7:00 p.m. A ten-minute delay would be allowed for approaching vessels. The drawbridge would not be required to open from 7:00 p.m. to 7:00 a.m.

The proposed regulations of opening the bridge at one-hour intervals would be less restrictive on marine traffic. Opening the draw at one-hour intervals would also improve the flow of vehicular traffic because the amount of time that the draw is open would be reduced. The purpose of this document is to solicit comments from anyone having an interst in the operation of the drawbridge.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising paragraph 117.290 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.290 Kent Island Narrows, Md., Highway bridge at Grasonville, Md.

(a) From November 1 through April 30 from 6 a.m. to 6 p.m. the draw shall open on signal. The draw need not open from 6 p.m. to 6 a.m.

(b) From May 1 through October 31:

(1) The drawbridge shall open for the passage of vessel traffic on the hour from 7:00 a.m. to 7:00 p.m. every day.

(2) The draw need not open from 7:00 p.m. to 7:00 a.m.

(3) If a vessel is approaching the drawbridge and cannot reach the draw exactly on the hour, the draw tender may delay the hourly opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(c) Public vessels of the United States or State or local vessels, on public safety missions shall be passed at any time. The opening signal from these vessels is four blasts of a whistle or horn. The opening signal from all other vessels is one long blast followed by one short blast.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: February 12, 1980.

T. T. Wetmore III,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 80-6593 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-14-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1067

Funding of CSA Grantees

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration (CSA) is filing a proposed rule setting forth two additional policies governing the use as venture capital of funds granted under Title II of the Economic Opportunity Act of 1964, as amended. First, CSA proposes to add a new appendix to the General Conditions Governing CSA Grants (45 CFR 1067.5). This appendix will extend the applicability of CSA directives to ventures funded under Title II, will provide for prior CSA approval of corporate documents and stock issuances, will change, for ventures only, existing CSA policy on the hiring of consultants, and will limit the encumbrance of assets acquired with grant funds. Second, CSA proposes to add a new paragraph to the Application Process for Funds Under Title II, Sections 221, 222(a), and 231 of the EOA (45 CFR 1067.40-3). This paragraph provides for the submission of additional documentation in support of a venture during the application process. These additional controls will protect the Federal interest in ventures funded under Title II and will assure that those ventures serve the purposes of Title II.

DATE: CSA welcomes and encourages comments on the proposed rule. All comments received on or before May 2, 1980 will be considered in drafting the final rule.

ADDRESS: Please address all comments to: Joseph D. Reid, Community Services Administration, Office of Community Action, 1200 19th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Joseph D. Reid, telephone (202) 254-6473; teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: Since this proposed rule will have a substantial effect on at least those CSA grantees which undertake ventures, CSA has deemed in a significant rule for the purposes of Executive Order 12044, "Improving Government Regulations."

These additions supplement existing policy and existing general conditions applicable to all grants funded under Title II of the Economic Opportunity Act of 1964, as amended. Although the use of grant funds as venture capital is permitted under Title II, the venture must serve the purposes of Title II. No venture funded under Title II can be an end in itself, but must be part of an overall strategy to reduce poverty in the community by filling an otherwise unmet need in the community. Furthermore, the venture must benefit the community as a whole and must in no way make its operations yield a profit to any individual. Finally, since the venture must be part of an overall strategy to combat poverty, it will be approved only as an element in a work program in which the need for the venture is clearly demonstrated. Whenever the grantee does not undertake the venture itself, a delegate agency contract with the organization which will be undertaking it must be executed.

CSA wishes to underscore that regulations which presently apply to grantees funded under Title II and to their delegate agencies also apply to the ventures which they undertake, whether conducted by the grantee or by its delegate agency. These policies include, among others, those on wage comparability (§ 1069.22), salary limitations (§ 1069.9), travel per diem expenses (§ 1069.4, § 1069.5), audits (§ 1068.42), and the Uniform Federal Standards (Part 1050) concerning program income (Subpart E), and the submission of financial reports (Subpart H). The requirements for the participation of the poor (§ 1060.1 and § 1062, Subpart J) also apply to ventures, including those requirements which apply to delegate agencies. CSA is particularly anxious to learn from those who comment on the proposed rule whether the establishment of advisory committees for delegate agencies operating ventures encourages meaningful participation of the poor.

By extending all policy controlling grants made under Title II to ventures funded under this Title, CSA is placing upon these ventures limitations similar to those which section 713(a) of the Act places upon ventures funded under Title VII. For example, grantees proposing to undertake ventures will be required to plan extensively and to coordinate their activities with other organizations in the community as required under the proposed rule concerning the grant management system, § 1067.70, published in the Federal Register on August 30, 1979. The participation of participation of churches or church related organizations is controlled by § 1067.9. Grantees must foster the upward mobility of their employees as required by § 1069.20. Grantees must maintain their level of effort in the community as required by § 1068.20, etc.

Note.—Although CSA is publishing these rules governing the use of Title II grant funds as venture capital, there will be no additional funds available for Title II ventures. Grantees may undertake ventures only within the limits of their current funding levels.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Graciela (Grace) Olivarez,

Director.

45 CFR 1067 is amended as follows:

1. 45 CFR 1067.5, General Conditions Governing CSA grants funded under Titles II, IV, and VII of the Economic Opportunity Act of 1964, as amended, is amended by adding a new Appendix C:

Appendix C

Addendum to the General Conditions for Grants made under Title II of the Economic Opportunity Act of 1964, as amended, where grant funds will be used as venture capital.

1. *Applicability of CSA Directives.* These conditions and all CSA directives applicable to grants made under Title II of the Economic Opportunity Act of 1964, as amended, shall be binding on this grantee and on any agency or organization with which the grantee enters into an agreement for performance of a component of the grant work program.

2. *CSA Approval of Corporate Documents.* No funds shall be expended by the grantee or by a delegate agency until the articles of incorporation and the bylaws of these entities have been

submitted to the appropriate CSA administering office and have been approved in writing. After initial approval and so long as there is a grant relationship between CSA and the grantee, these articles and bylaws shall not be amended without the written concurrence of the appropriate CSA administering office.

3. *Issuance of Securities.* There shall be no issuances of securities either by the grantee or by a delegate agency without prior approval of the appropriate CSA administering office. Copies of any registration statement or notification or prospectus or offering circular prepared in conjunction with an issuance of securities should be sent to the appropriate CSA administering office. Copies of any other documents which the issuer is required to file in connection with any issuance of securities, whether by Federal securities laws or by state blue sky laws, should be sent to the appropriate CSA administering office.

4. *Use of Consultants.* a. Consultant fees, other than fees for legal services, shall not exceed $100 per day and shall be based on written evidence as to the normal salary or wage level received by the individual consultant. The grantee or delegate agency, however, may compensate a consultant at a rate in excess of $100 per day upon the determination of the Chief Executive Officer of the grantee or of the delegate agency that:

(1) There is a special task which cannot be performed by the salaried staff; there is a need for consultant services of a special character; and these services are not readily available through any CSA contracts for technical assistance made under section 712 of the Economic Opportunity Act of 1964, as amended;

(2) The consultant selected to perform the task is specifically qualified by experience and credentials;

(3) The consultant is normally paid a like amount for similar services; and

(4) There is evidence that no consultant of equal experience and credentials is available for a lesser amount.

b. In addition to the quarterly financial reports submitted to the appropriate CSA administering office as required in § 1050, Subpart H, the grantee or delegate agency shall maintain on file the following information with respect to each consultant who has been paid a fee in excess of $100 per day during the quarter covered by the report:

(1) The consultant's name;

(2) The date the employment was authorized by the Chief Executive Officer;

(3) A brief description of the task or tasks performed;

(4) The consultant's fee per day;

(5) The total amount of the fee paid to the consultant during the quarter;

(6) The amount paid to the consultant for other expenses; and

(7) The aggregate amount paid to the consultant for the quarter covered by the report and for all previous quarters.

5. *Encumbrance of Assets Acquired with Grant Funds.* Neither the grantee nor its delegate agency may mortgage or otherwise encumber stock or other assets acquired with grant funds without the prior written approval of the appropriate CSA administering office.

2. In 45 CFR 1067.40-3 paragraph (g) is redesignated paragraph (h) and the following new paragraph (g) is added:

§ 1067.40-3 Application process for funds under title II, sections 221, 222(a), and 231 of the EOA.

* * * * *

(g) *Additional required documents when grant funds are used as venture capital.* When a grantee proposes to undertake an activity using Title II funds as venture capital, the venture must be reported as an activity on CSA Form 419 of the grant application, for which the appropriate Standards of Effectiveness (§ 1067.4) must be addressed. If the grantee will not operate the venture itself, it shall arrange to sign a delegate agency contract, CSA Form 280, with the organization which will operate the venture. See § 1063.131 of this chapter for a discussion of the requirements for these contracts. In addition, the grantee shall submit the following materials, as appropriate, in support of the Form 419:

(1) Documentation that there will be no substantial negative impact on existing small businesses;

(2) Appropriate feasibility studies and cost analyses;

(3) Certified balance sheets and profit and loss statements for the immediately preceding three years or from the commencement of its operation (whichever period is shorter) if funds are to be used for the acquisition, preservation, or expansion of an existing business venture;

(4) Cash-flow projections and proforma profit and loss statements and balance sheets estimated on a monthly basis for two years;

(5) Resumes of the management team;

(6) The articles of incorporation and the bylaws of the venture.

[FR Doc. 80-6470 Filed 2-29-80; 8:45 am]
BILLING CODE 6315-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket PS-64, Notice 1]

Transportation of Natural and Other Gas by Pipeline Transportation of Hazardous Liquids by Pipeline; Qualification of Metallic Components

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes criteria to qualify for use under Parts 192 and 195 metallic pipeline components manufactured according to editions of documents incorporated by reference that: (1) Are not listed as applicable editions to those referenced documents and (2) predate the earliest applicable effective dates of Parts 192 and 195. Current requirements unnecessarily restrict the usage of such components. The new criteria would apply to gas pipeline facilities as defined in Part 192, and to interstate and intrastate pipeline facilities used in the transportation of hazardous liquids as those terms are defined in the Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979).

DATES: Interested persons are invited to submit written comments on this proposal before April 30, 1980.

ADDRESS: Comments should be sent in triplicate to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Comments submitted will be available for review and copying before and after the closing date at the Docket Branch, Room 8426, Nassif Building, 400 7th Streets SW., Washington, D.C., between 8:30 a.m. and 5:00 p.m. each working day. Late filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, 202-426-2392.

SUPPLEMENTAL INFORMATION: Under the present requirements of Parts 192 and 195, various metallic pipeline components (other than pipe) may not be installed in pipelines unless manufactured in accordance with an applicable edition of a document that has been incorporated by reference into the standards. In Part 192, the applicable editions of referenced documents are set out in Appendix A, and in Part 195, they are listed in § 195.3. Hence, in many cases, items that were manufactured to early editions of documents, of which a later edition has been referenced, may

not be used under Parts 192 or 195. For example, a valve manufactured to the 1964 edition of the API 6D, "Specification for Pipeline Valves", cannot be installed or relocated in a pipeline, since the earliest applicable edition of API 6D referenced in Appendix A of Part 192 and § 195.3 is the 1968 edition. This precludes the use of such a valve in a new pipeline or the relocation of such valve from one location in a pipeline to another location in the same pipeline. In addition, this could preclude the relocation of prefabricated units designed to be portable, such as skid mounted gas scrubbers, pressure regulating stations, and measurement stations.

The Interstate Natural Gas Association of America (INGAA), in a petition (Pet. 77-14) for rulemaking dated August 18, 1977, pointed out that to properly operate and maintain pipeline facilities and provide for possible emergency situations, it is necessary for pipeline operators to store or maintain on hand quantities of components for use in existing facilities. Many of these components were purchased new and have not been in service, while some have been removed from service and reconditioned or determined to be in a condition that meets the requirements of the standards to which they were manufactured. Due to wide variations of pressure ratings, temperature ranges, design factors, size, etc., and other variables that may be required for a specific pipeline, it is not always possible to rotate stock in a manner that maintains components in compliance with the most recent editions of documents incorporated by reference. While current standards alleviate this problem somewhat by permitting continued use of components manufactured to earlier listed editions of such documents, some items have been manufactured to editions that predate the earliest listed editions. Any stock of components manufactured to an unlisted edition of a referenced document, even though in serviceable condition for use, most often cannot be installed in compliance with Parts 192 or 195.

In addition to components in stock, it is also frequently advantageous to remove components from service at one location and reinstall them at another location. For example, thousands of skid mounted (portable) units for gas measurement, compression, and treating now in service are designed to be removed from one location and used at another, as needed for temporary or limited duration service. Relocation of equipment such as valves, gas metering, gas treating, field compressors, and similar type facilities containing components manufactured to an earlier unlisted edition of a later referenced document is not permitted. The present standards would in effect require the purchase of new components in lieu of reusing such serviceable items. In addition to the financial loss on components in stock, the inability to reuse or reinstall safe components imposes an apparently unwarranted financial burden on the operators and the consuming public.

INGAA estimates that its 28-member pipeline operators alone have on hand $22.5 million (1977 prices) worth of components other than pipe that would be prohibited, or at best questionable, for use in compliance with Part 192. The components involved consist primarily of valves, flanges, pressure vessels (e.g., scrubbers, separators, pulsation chambers, etc.), and related items. To illustrate the possible impact of these costs nationwide, MTB received 609 annual reports for 1978 from operators of gas transmission pipelines, of which the 28 INGAA members would be among the largest, however, the other gas transmission pipeline operators and many distribution pipeline operators would have the same basic problem with pipeline components in stock. In addition, MTB estimates there are a substantial number of operators of interstate and intrastate pipeline facilities used in the transportation of hazardous liquids that would also have this problem. In view of the preceding discussion, MTB believes the economic loss in replacing the components involved, simply because they were manufactured to an edition of a referenced document that precedes the earliest listed edition to that document is not cost effective. MTB further believes components falling in this category should be permitted for use if it can be determined that the components are safe for use in the intended service.

MTB believes that in determing whether the subject component is safe for use, it should be minimally required that the physical and chemical properties of the component's materials be substantially the same as required by a listed edition of the document used in the manufacture of a similar component. In addition, the component must have been subjected to pressure testing substantially the same as required by the same listed edition.

Appendix B-III of Part 192 sets forth requirements for qualifying steel pipe manufactured to an earlier edition of a listed specification. MTB believes these requirements very clearly state the elements that would also be appropriate for similarly qualifying metallic components. Therefore, MTB has used Appendix B-III as the basis for proposing requirements to qualify for use, under Parts 192 and 195, metallic components manufactured to an edition of a document incorporated by reference that predates the earliest listed edition and the earliest applicable effective dates of Parts 192 and 195. However, MTB is not proposing that components be subjected to a stringent field pressure test as required in some cases for qualifying pipe under Appendix B-III because pressure testing during manufacturing required by the appropriate documents incorporated by reference in Appendix A of Part 192 and in § 195.3 consistently specify factory test pressures of at least 1.5 times the rated maximum operating pressure. In addition, such components would have to be subjected to hydrostatic testing under the requirements of Subpart J of Part 192 and Subpart E of Part 195 after they are installed in a pipeline and before operation.

The MTB has determined that this proposed rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034). If adopted, this proposal will eliminate unnecessary costs to the pipeline industry and, therefore, does not require a full Draft Evaluation under DOT procedures.

In consideration of the foregoing, MTB proposes that Parts 192 and 195 of Title 49, Code of Federal Regulations, be amended as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

1. By adding a new § 192.144 to read as follows:

§ 192.144 Qualifying metallic components.

Notwithstanding any requirement of this subpart which incorporates by reference an edition of a document listed in Appendix A of this part, a metallic component manufactured before April 1, 1970, in accordance with an edition of that document published before the earliest listed edition is qualified for use under this part if—

(a) The component is clean enough to permit adequate inspection and is visually inspected to ensure that there are no defects which might impair the strength or tightness of the component, and

(b) The edition of the document under which the component was manufactured has substantially the same requirements for the following as a later edition of that document listed in Appendix A:

(1) Pressure test;

(2) Physical (mechanical) and chemical properties and testing to verify those properties; and

(3) For a component that is fabricated by welding, nondestructive inspection of welded seams and standards for acceptance or rejection and repair of welded seams.

PART 195—TRANSPORTATION OF LIQUIDS BY PIPELINE

2. By adding a new § 195.101 to read as follows:

§ 195.101 Qualifying metallic components.

Notwithstanding any requirement of the subpart which incorporates by reference an edition of a document listed in § 195.3, a metallic component manufactured before April 1, 1970, in accordance with an edition of that document published before the earliest listed edition is qualified for use under this part if—

(a) The component is clean enough to permit adequate ispection and is visually inspected to ensure that there are no defects which might impair the strength or tightness of the component; and

(b) The edition of the document under which the component was manufactured has substantially the same requirements for the following as a later edition of that document listed in § 195.3:

(1) Pressure test;

(2) Physical (mechanical) and chemical properties and testing to verify those properties; and

(3) For a component that is fabricated by welding, nondestructive inspection of welded seams and standards for acceptance or rejection and repair of welded seams.

(49 U.S.C. 1672; 49 U.S.C. 1804 for offshore gas gathering lines; sec. 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (Title II of Pub. L. 96-129, November 30, 1979); 49 CFR Parts 1.53, Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on February 26, 1980.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 80-6531 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-02; Notice 1]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to a petition filed by the Rubber Manufacturers Association (RMA), this notice proposes an amendment of Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* This amendment would modify Appendix A of that Standard to increase the loading schedules for certain tire sizes, thereby allowing the use of those tires sizes on passenger cars which require greater loadcarrying capacity than the passenger cars on which the tire sizes can presently be used. RMA has submitted test data to show that the tire sizes will satisfy all the performance requirements of Standard No. 109 when tested at the increased loads.

DATE: Comment closing date: April 2, 1980.

ADDRESSES: Comments should refer to Docket No. 80- , and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: The loading schedules for the tire sizes listed in Appendix A of Federal Motor Vehicle Safety Standard No. 109 (49 CFR 571.109) indicate the maximum load each specified tire size can safely carry at certain designated inflation pressures. These loading schedules are derived from a mathematical formula, which factors in the inflation pressure of the tire, the cross sectional diameter of the tire, the diameter of the rim on which the tire is mounted, and a "K factor". The numerical value assigned to the K factor has been established on the basis of service experience with the type of tire, and acts to hold the percentage of tire deflection within certain acceptable limits. Tire deflection is the difference between the unloaded section height of the tire and its loaded section height. To ensure that the tire will be able to perform properly at a given load, the tire deflection should not exceed 16-18 percent. The K factor assigned to a given tire size depends on the design factors of the tire, such as whether it is bias ply or radial.

When the P-metric tires were introduced in the 1975 model year, one K factor was used for the 75 and 80 series P-metric tires and a different one for the 60 and 70 series P-metric tires. P-metric tires are tires whose dimensions are expressed in metric units, and are designed to be operated at a higher inflation pressure than other tires. At that time, the K factors assigned to these tires was derived from the formula for comparable alphanumeric tires, which resulted in a lower K factor for the 60 and 70 series. Alphanumeric tires are tires whose dimensions are expressed in inches, and whose load-carrying capacity is indicated in the size designation. With respect to the smaller diameter 60 and 70 series P-metric tires, a lower K factor was also assigned to ensure that the treadwear would not be accelerated.

However, the experience gained with the P-metric tires has shown that the smaller 60 and 70 series can safely carry loads calculated according to the same K factor as the larger P-metric tires use. Further, the treadwear when the smaller tires are subjected to these increased loads is not unduly accelerated. Accordingly, the tire manufacturers' trade associations have published loading schedules for all P-metric tires using the K factor originally assigned to just the larger P-metric tire series.

RMA filed a petition with this agency requesting that the National Highway Traffic Safety Administration (NHTSA) follow suit, and use this new K factor to increase the loads shown for the smaller P-metric tire series in Appendix A of Standard No. 109. This agency granted that petition in a notice published at 44 FR 47966, August 16, 1979. In its petition, RMA submitted data showing that the smaller P-metric tire sizes fully comply with the performance requirements of Standard No. 109 when loaded according to the increased loading schedules which result from using the new K factor. After reviewing that data carefully, NHTSA has tentatively concluded that there is not any safety hazard associated with the requested increases of the permissible loads for these tires.

In consideration of the foregoing, NHTSA hereby proposes that 49 CFR Part 571.109 be amended as specified below:

§ 571.109 New pneumatic tires—passenger cars. (Appendix Amended)

1. Table I–JJ in Appendix A is revised to read as follows:

Table I–JJ.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for "P/70" Series ISO Type Tires*

Tire size [1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P175/70R13	335	360	385	405	430	450	470	490	510	5	740	177
P185/70R13	365	395	420	450	470	495	515	540	460	5	761	184
P195/70R13	400	430	460	490	515	540	565	590	610	5½	788	190
P205/70R13	435	470	505	535	560	590	615	640	665	5½	806	203
P205/70R14	460	495	530	560	590	620	650	675	700	5½	832	203
P215/70R14	500	535	575	610	640	675	705	730	760	6	858	216
P225/70R14	540	580	620	660	695	730	760	790	820	6	879	223
P235/70R14	580	625	670	710	750	785	820	855	885	6½	904	235
P245/70R14	625	675	720	765	805	845	880	920	955	7	930	249
P225/70R15	565	610	650	690	725	760	795	830	860	6	904	223
P235/70R15	605	655	700	745	785	820	860	895	925	6½	929	235
P255/70R15	700	755	805	855	900	945	990	1030	1065	7	976	255

[1] The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in § 4.2.2.2.

2. Table I–KK in Appendix A is amended, with the following values substituted for the P235/60R14, P245/60R15, and P255/60R15 tire sizes:

Table I–KK.—*Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for "P/60" Series ISO Type Tires*

Tire size [1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section [2] width (mm)
	120	140	160	180	200	220	240	260	280			
P235/60R14	500	540	580	615	645	680	710	740	765	6½	857	235
P245/60R15	565	610	650	690	730	765	795	830	860	7	907	248
P255/60R15	605	650	695	740	780	820	855	890	925	7	925	255

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in § 4.2.2.2.

Interested members of the public are invited to submit comments on this proposal to the address for comments given above. It is requested but not required that 10 copies be submitted. Those persons desiring to be notified of the receipt of their comments in the docket section should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the postcard by mail.

All comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket both before and after the comment closing date. NHTSA has limited the comment period to 30 days on this proposal, since it is based on technical computations, and it has been shown that adoption of the proposal would not cause any tire size to fail to comply with the safety requirements of Standard No. 109.

NHTSA has reviewed the impacts of this proposal, and determined that there should be no new costs associated with its implementation, since it does not impose any new requirements on manufacturers, but instead permits them to use certain tire sizes more widely. Further, the proposal is not controversial, since there are no safety hazards which might result from its implementation. Accordingly, NHTSA has concluded that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this proposal are John Diehl and Stephen Kratzke, respectively.

Authority: Sections 103, 119, and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8

Issued on February 25, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-6425 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of the Status of the Columbia Tiger Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Status Review.

SUMMARY: The Service will review the status of the Columbia tiger beetle (*Cicindela columbica*) to determine if it should be added to the List of U.S. Endangered Wildlife. A petition received by the Service has presented sufficient data to warrant this review.

DATES: Information regarding the status of this species should be submitted on or before June 2, 1980.

ADDRESSES: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and

Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On December 18, 1979, Mr. Gary Shook petitioned the U.S. Fish and Wildlife Service to list the Columbia tiger beetle (*Cicindela columbica*) as federally endangered. Section 4(a) of the Endangered Species Act of 1973 states that the Secretary may determine a species to be endangered or threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;

2. Overutilization for commercial, sporting, scientific, or educational purposes;

3. Disease or predation;

4. The inadequacy of existing regulatory mechanisms; or

5. Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director, Fish and Wildlife Service.

The Service has determined that, with respect to thue Columbia tiger beetle, the petition provides substantial evidence indicating that the species may be endangered or threatened because of factors 1 and 4.

The Columbia tiger beetle formerly occurred on sandbars in the Columbia and Snake Rivers in Washington, Oregon, and Idaho. The beetle has been extirpated from these rivers because of dam construction. Dam construction on the lower Salmon River in Idaho could destroy the only known remaining populations of the Columbia tiger beetle.

The Service is seeking the views of the Governors of Oregon, Idaho, and Washington, and is soliciting from them information on the status of the Columbia tiger beetle. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germane to this status review. The information received in response to this notice of review will be used to determine if this species should be proposed for addition to the list of U.S. Endangered and Threatened Wildlife.

This notice of review was prepared by Dr. Michael M. Bentzien, Office of Endangered Species (703/235-1975).

Dated: February 20, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-6588 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

43 CFR Part 3500

Leasing of Minerals Other Than Oil and Gas; General; Introduction—General

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would amend existing mineral leasing regulations (43 CFR 3500) and provide a definition of the term "chiefly valuable" as used in the Mineral Leasing Act of 1920, as amended. On May 7, 1976, the Department of the Interior published in the Federal Register extensive amendments to Part 3520 of Title 43 of the Code of Federal Regulations. In that notice the Department indicated that a separate rulemaking on the definition of "chiefly valuable" would be instituted. The purpose of this proposed rulemaking is to carry out the commitment of the Department, to clarify the intent of the Mineral Leasing Act and to aid in the decisionmaking process relative to preference right leases.

DATE: Comments by May 2, 1980.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C. Street NW., Washington, D.C. 20240.

Comments will be available for public review on regular working days from 7:45 a.m.—4:15 p.m. in room 5555 at the above address.

FOR FURTHER INFORMATION CONTACT: David M. Carty at the above address or call (202) 343-8537.

SUPPLEMENTARY INFORMATION: Under the Mineral Leasing Act of 1920, as amended (30 U.S.C. 262, 272, 282), holders of prospecting permits for sodium, sulphur, and potash are entitled to leases, "Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits * * * have been discovered by the permittee within the area covered by his permit and that such is chiefly valuable therefore . . . ."

There is little case law with respect to what the term "chiefly valuable" means in the context of 30 U.S.C. 262, 272, and 282.

However, Departmental decisions have been issued which interpret other Acts containing the requirement that no patent or lease issue unless it be shown that the land is "chiefly valuable" for timber (Act of June 30, 1879, 20 Stat. 89), building stone (Act of August 4, 1892, 30 U.S.C. 161), saline deposits (Act of January 31, 1901, 30 U.S.C. 162), and petroleum (Act of February 11, 1897, 30 U.S.C. 101). These decisions indicate that a comparison of values is required. In early decisions, the comparison was between the value of the land for agricultural purposes and its value for the particular mineral. *Cf. John McFayden*, 51 L.D. 436 (1929); *Pacific Coast Marble Co.* v. *Northern Pacific R.R. Co.*, 25 L.D. 233, 246 (1897). More recent decisions have reiterated that land claimed under the Building Stone Act be more valuable for mineral than for non-mineral purposes. *Cf. United States* v. *Kosanke Sand Corp.* 80 I.D. 538, 548 (1973); *United States* v. *Frank and Wanita Melluzzo*, 76 I.D. 181, 188 (1969). Although none of these cases arose under 30 U.S.C. 262, 272, or 282, it is appropriate that the meaning given the term "chiefly valuable" also apply to the statutes dealing with preference right leases for sodium, sulphur, and potash.

Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) provides that the public lands shall be managed under principles of multiple use and that the use of the public lands shall be regulated through easements, permits, leases, published rules or other instruments as deemed appropriate. The principle of "chiefly valuable" has been applied to applications for leases resulting from prospecting permits since passage of the Acts of February 25, 1920, (30 U.S.C. 261); April 17, 1926, (30 U.S.C. 271); and February 7, 1927, (30 U.S.C. 283).

Articulating the definition of "chiefly valuable" in this proposed rulemaking will not deprive any lease applicant of rights claimed through prospecting permits; the right to lease is not established until the determination that the land is "chiefly valuable" for the mineral in question is made. This proposed rulemaking simply defines the standard to be used in making this finding, which is a statutory pre-condition for lease issuance.

The principal author of this proposed rulemaking is David M. Carty, Division of Mineral Resources, Bureau of Land Management.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is hereby determined that this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Under the authority of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181-287), and section 310 of the

Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740), it is proposed to amend Subpart 3500, Part 3500, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

Section 3500.0-5 is amended by adding a new paragraph (j) to read as follows:

§ 3500.0-5 Definitions.

* * * * *

(j) "Chiefly valuable" means that the value of land for extraction of sodium, potash or sulphur exceeds its value for non-mineral purposes such as agriculture, grazing, timber, recreation, preservation of the environment and any other non-mineral use to which the land may be put as authorized under the laws and regulations of the United States.

Guy R. Martin,

Assistant Secretary of the Interior.

February 26, 1980.

[FR Doc. 80-6494 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[INT DES 80-5]

Surface Management of Public Lands Under the U.S. Mining Laws; Availability of Draft Environmental Impact statement (DEIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft environmental impact statement on the proposed 43 CFR Part 3809 Regulations—Surface Management of Public Lands under the U.S. Mining Laws, Published elsewhere in this issue and will hold meetings on DEIS.

The draft statement analyzes environmental impacts that would result from implementation of the proposed regulations on prospecting, exploration and development of about 1,500,000 mining claims embracing upward of 20,000,000 acres on the more than 470,000,000 acres managed by the Bureau of Land Management, primarily in the Western States and Alaska.

DATE: Written comments on the DEIS will be accepted until May 2, 1980, and are solicited from public agencies, interested citizens and groups.

ADDRESSES: Single copies of the draft statement are available at the following locations:

Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513
Arizona State Office, 2400 Valley Bank Center, Phoenix, Arizona 85073
California State Office, Federal Office Bldg., Rm. E-2841, 2800 Cottage Way, Sacramento, California 95825.
Colorado State Office, Colorado State Bank Bldg., Rm. 700, 1600 Broadway, Denver, Colorado 80202
Eastern States Office, 350 South Pickett Street, Alexandra, Virginia 22304
Idaho State Office, Federal Bldg., Rm. 398, 550 West Fort Street, Box 042, Boise, Idaho 83724
Washington Office, Director (520), Bureau of Land Management, U.S. Department of the Interior, 19th & E Street NW., Washington, D.C. 20240
Montana State Office, Granite Tower, 222 N. 32nd Street, P.O. Box 30157, Billings, Montana 59107
Nevada State Office, Federal Bldg., Rm. 3008, 300 Booth Street, Reno, Nevada 89509
New Mexico State Office, U.S. P.O. and Federal Bldg., South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501
Oregon State Office, 729 NE Oregon Street, P.O. Box 2965, Portland, Oregon 97208
Utah State Office, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111
Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001

In addition, copies may be examined at any of the 56 Bureau of Land Management District Offices located in key cities and towns of the Western United States. Copies of the draft statement may also be found in the public libraries of those cities and towns where the offices are located.

Written comments on the DEIS will be accepted for the 60 days following issuance of this notice and are solicited from public agencies, interested citizens and groups.

Comments should be addressed to the Director (520), Bureau of Land Management, Interior Building, 19th & E Streets, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Winston Short, 202-343-2721.

Public meetings will be held to provide opportunity for public input and comment on the DEIS. Dates, locations and times will be announced.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: February 25, 1980.

James W. Curlin,

Acting Assistant Secretary of the Interior.

[FR Doc. 80-6495 Filed 2-29-80; 9:41 am]

BILLING CODE 4310-84-M

Notices

Federal Register
Vol. 45, No. 43
Monday, March 3, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.
Date: March 12-13, 1980.
Time and Place: 8:30 a.m.-4:00 p.m., Room 3552, South Building, U.S. Department of Agriculture, Washington, D.C.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: Purposes of meeting are to plan the agenda for the April 16-18, 1980, joint meeting of the Joint Council and the Users Advisory Board, and hear reports on the Manpower Study, the Technical Information Systems, and areas of emphasis in the food agricultural sciences for the early 1980s.
Contact Person: Dr. Fred E. Westbrook, Acting Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6652.

Done at Washington, D.C., this 15th day of February 1980.

James Nielson,

Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-6517 Filed 2-29-80; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 80-2-130; Docket 31290]

Establishment of the Interim Standard Industry Fare Level; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day or February, 1980.

The Airline Deregulation Act of 1978, (ADA) requires that the Board compute a "standard industry fare level" (SIFL) based upon the fare level in effect on July 1, 1977, and not less than semiannually, update the SIFL by increasing or decreasing it by the percentage change in actual operating costs per available seat-mile (ASM) for interstate and overseas transportation combined. Once computed, the SIFL becomes the benchmark for measuring the statutory zone of reasonableness.

The Board has periodically adjusted the SIFL on July 1, September 1, November 1, 1979, and January 1, 1980. The September and November adjustments reflected changes caused by the rapid inflation in fuel expenses solely, and did not adjust for increases incurred in non-fuel related costs. The January 1 adjustment also reflected an adjustment for non-fuel as well as fuel costs in accordance with the ADA as six months had elapsed since we last adjusted non-fuel costs. Effective with the January adjustment, we extended our policy of projecting fuel costs on a bi-monthly basis to non-fuel expense projections as well, since we are adjusting the SIFL on a two-month basis in any event. Consequently, this current adjustment will extend our non-fuel projection based on year ended September, 1979 financial data an additional two months to April 1, 1980 in addition to our usual adjustment reflecting latest fuel expenses.

[1] See the following table:

Trunk and Local Service Carrier Scheduled Service Fuel Price Calculation[1]

Month	Price/gallon	Change from previous month
October 1979	69.77	+2.63
November	71.67	+1.90
December	73.79	+2.12
January 1980	77.29	+3.50

Our latest methodology projects the average change in price over the last four months to the chosen future date, then adds the projected change to the current fuel price. In this case, we projected an average increase of 2.54 cents per month for two and one-half months (to April 1), then added this 6.35 cent increase to the January price—projecting a cost of 83.64 cents per gallon as of April 1, 1980.

January 1980 fuel costs are now available and indicate an increase in average price per gallon of 3.50 cents over December 1979 to 77.29 cents. Applying our methodology to year ended September 30, 1979 financial data and January 1980 fuel costs[1] and projecting fuel and non-fuel costs to April 1, 1980, raises the SIFL about 2.5 percent over the level effective January 1, 1980 (See Appendix).

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 1002:

We set the Standard Industry Fare Level effective March 1, 1980 as follows:

Terminal Charge	$23.86
Plus	.1305/mile (0-500 miles)
Plus	.0995/mile (501-1,500 miles)
Plus	.0957/mile (over 1,500 miles)

This order will be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[2]
Secretary.

[FR Doc. 80-6553 Filed 2-29-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12:00 p.m. and will end at 2:00 p.m., on March 26, 1980, at the Sheraton Inn, 1570 North du Pont Highway (Route 13), Dover, Delaware 19901.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review items of concern covered last year and set priorities for the future. Items addressed in 1979 were: affirmative action in state government; student suspensions and school discipline related to desegregation; rural housing; plan Omega; the 1980 census; and business opportunities in public works projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

[2] All Members concurred.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-6573 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on March 24, 1980, at the Community Action Inc., Conference Room, 1101 South 15th Street, Springfield, Illinois 62703.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to meet with staff of the Special Education Department-Illinois Office of Education to discuss the status of the program in the state; and review for approval the housing project concept.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-6586 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on March 17, 1980, Indianapolis Hilton, 31 W. Ohio Street, Indianapolis, Indiana 46204.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is the review of the minutes by the Chairperson; a report by staff on the montoring of SAC projects; and review of data requested by staff and committee on the Indianapolis employment project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 25, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-6570 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:00 p.m., on March 25, 1980, at the Thomas Hunter Lowe Building, Annapolis, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss plans for the Statewide Congress; followup activities on police complaint handling; D.C. voting rights; and 1980 census.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-6571 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 9:00 p.m., on March 25, 1980, and will convene at 10:00 a.m. and will end at 5:00 p.m. on March 26, 1980, at J. F. Kennedy Federal Building, Government Center, Room 226 Boston Massachusetts 02203.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is a factfinding open meeting on Massachusetts State Government; and on state and Federal Affirmative Action Programs.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-6569 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 5:00 p.m., on March 18, 1980 at the Social Security Building Auditorium, 300 Spring Garden, Philadelphia, Pennsylvania 19123.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is the Pennsylvania's component of the National Affirmative Action Project; and Federal requirements pertaining to affirmative action in employment.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management.

[FR Doc. 80-6572 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 1:00 p.m., on March 21, 1980 at the Governor's Conference Room, State Capitol, Pierre, South Dakota.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan future activities of the Committee.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 26, 1980.

Thomas L. Neumann,

Advisory Committee Management.

[FR Doc. 80-6567 Filed 2-29-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Wednesday, March 19, 1980, at 10:00 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW, Washington, DC.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, March 16, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of guidelines between this Committee and the "critical technology" group of Department of Defense.
4. Discussion of Telecommunications Equipment Technical Advisory Committee membership and recruitment.
5. Review of annual report assignments.

Executive Session

6. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical advisory Committee and of any subcommittees thereof, was published in the Federal Register on September 26, 1978 (43 FR 43531).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: February 26, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-6479 Filed 2-29-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Levels for Certain Cotton Textile Products from Brazil

February 26, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint from 227,215 to 243,131 dozen for Category 339 (women's girls' and infants' cotton knit shirts and blouses) and from 628,500 to 729,725 pounds for Category 369 pt. (floor coverings), produced or manufactured in Brazil and exported to the United States during the agreement year which began on April 1, 1979 by the application of carryover and swing.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1979 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94, March 22, 1979 (44 F.R. 17545), April 12, 1979 (44 F.R. 21843), and December 20, 1979 (44 F.R. 75441)).

SUMMARY: Paragraph 8 of the Bilateral Cotton and Man-Made Fiber Textile Agreement of April 22, 1976, as amended and extended, between the Governments of the United States and Brazil provides for designated percentage increases for certain categories (swing) during the agreement year which began on April 1, 1979. Paragraph 8(A)(1) provides for carryover of shortfalls from the previous year. at the request of the Government of Brazil, the level of restraint for Category 339 is being increased for swing and carryover from 227,215 dozen to 243,131 dozen and for Category 369 pt., from 628,500 pounds to 729,725 pounds during the twelve-month period which began on April 1, 1979 and extends through March 31, 1980.

EFFECTIVE DATE: February 27, 1980

FOR FURTHER INFORMATION CONTACT: LaWonne Cunningham, Statistical Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230, (202/377-4212).

SUPPLEMENTARY INFORMATION: On April 11, 1979 a letter dated April 6, 1979 from the Chairman of the Committee for the

Implementation of Textile Agreements to the Commissioner of Customs was published in the Federal Register (44 F.R. 21694) which established levels of restraint applicable to certain categories of cotton textile products, produced or manufactured in Brazil and exported to the United States during the twelve-month period which began on April 1, 1979 and extends through March 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioners of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 339 and 369 (pt.) in excess of the amended twelve-month levels of restraint.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 26, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.[1]

Dear Mr. Commissioner: On April 6, 1979, the Chairman of the Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton textile products, produced or manufactured in Brazil and exported to the United States during the agreement year which began on April 1, 1979, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of April 22, 1976, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on February 27, 1980, the levels of restraint established for Category 339 to 243,131 dozen and Category 369-pt.[2] to 729,725 pounds.[3]

The action taken with respect to the Government of the Federative Republic of Brazil with respect to imports of cotton textile products from Brazil has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-6574 Filed 2-29-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) within the aggregate and applicable percentages, specific limits may be exceeded by designated percentages, (2) specific ceilings may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] In Category 369, only T.S.U.S.A. numbers: 360.2000, 360.2500, 360.3000, 360.7600, 360.8100, 361.0510, 361.1820, 361.5000, 361.5420, 361.5630.

[3] The levels of restraint have not been adjusted in either case to reflect any imports after March 31, 1979.

Cancelling Import Controls on Certain Wool and Man-Made Fiber Apparel from Yugoslavia

February, 27, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Cancelling the import controls established on men's and boys' wool and man-made fiber suits from Yugoslavia during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), April 12, 1979 (44 F.R. 21843), and December 20, 1979 (44 F.R. 75441)).

SUMMARY: The Bilateral Textile Agreement of October 26 and 27, 1978, as amended, between the Governments of the United States and the Socialist Republic of Yugoslavia establishes a level of restraint of 14,270 dozen for Category 443/643 with a sublimit of 7,855 dozen for Category 443 within the overall limit during the agreement year which began on January 1, 1980. In the face of declining imports from Yugoslavia in this category, the United States Government has decided to rescind its directive to the Commissioner of Customs of December 19, 1979 to control imports in Category 443/643 at the designated level of restraint.

EFFECTIVE DATE: March 3, 1980.

FOR FUTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 26, 1979, there was published in the Federal Register (44 F.R. 76385) a letter dated December 19, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain categories of wool and man-made fiber apparel, produced or manufactured in Yugoslavia, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements cancels the directive to the Commissioner of Customs of December 19, 1979.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 27, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of December 19, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categories 443 and 643, produced or manufactured in Yugoslavia, in excess of the designated level of restraint, effective on March 3, 1980.

The action taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of wool and man-made fiber textile products from Yugoslavia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-6575 Filed 2-29-80; 8:45 am]

BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The Price Advisory Committee will meet on March 12, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20506.

Purpose of the Meeting: The Committee will continue unfinished business from earlier meetings.

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons may file written statements with the Committee by mail or personal delivery to the Office of the General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: February 26, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-6478 Filed 2-29-80; 10:16 am]

BILLING CODE 3175-01-M

Improving Government Regulations

Implementing Executive Order 12044; Final Guidelines

AGENCY: Council on Wage and Price Stability.

ACTION: Publication of final guidelines implementing Executive Order 12044.

SUMMARY: The Council on Wage and Price Stability is publishing its final guidelines for implementing Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Roy A. Nierenberg, Deputy General Counsel, Council on Wage & Price Stability, 600 17th Street, N.W., 20506, 202-456-6286.

SUPPLEMENTARY INFORMATION: The Council on Wage and Price Stability is firmly committed to Executive Order 12044's goal of improving Federal regulations. The Council published interim guidelines for implementing the Order on July 18, 1979 (44 FR 41904). It has received no public comments. In response to a suggestion by the Office of Management and Budget, the Council has slightly revised the guidelines to make clear that the Director may, in his discretion, request regulatory analyses that are not otherwise required. The final guidelines were approved by the Director of OMB on January 30 and are effective immediately.

Issued in Washington, D.C., March 3, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Final Guidelines: Introduction and Coverage

The Council on Wage and Price Stability is charged with the task of implementing the President's voluntary wage and price program and with monitoring and analyzing inflationary developments throughout the economy. Aside from its procedural rules, the Council isues no regulations that directly require compliance by members of the public. Rather, the Council issues voluntary standards that members of the public are encouraged to observe in order to combat inflation. Nevertheless, the effect of these voluntary standards on the public is sometimes similar to that of regulations.

The Council is sensitive to the effect of its promulgations on the public, and is committed to fulfilling the objectives of Executive Order 12044. The process by which the Council will develop new voluntary standards and regulations is described below.

Executive Order 12044 is intended to improve the quality of agency regulatory practices. It is not intended to create delay in the process or to provide new grounds for judicial review. The Council announces the procedures in this notice with the same intention.

Regulations that are issued in response to emergencies or that are governed by short term statutory deadlines are exempt from the requirements of the Order. The needs of the President's anti-inflation program in some cases may similarly require expedited formulation or publication of voluntary standards and regulations. Whenever it uses an expedited process, the Council will publish an explanation of the reasons.

Development of New Standards and Regulations

The Council generally states or clarifies policy through three types of announcements—regulations, voluntary standards, and Questions and Answers (Q & A's).

Regulations govern the operation of the Council. They set forth the procedures that the public should observe in supplying or requesting information, in requesting exception decisions, in responding to notices of probable noncompliance, in requesting reconsideration of Council determinations, in requesting removal from the Council's noncompliance list, and in other specified situations.

Voluntary standards are the Council's substantive pronouncements. They set forth the voluntary pay and price guidelines to which the public is expected to adhere.

Q & A's treat situations that give rise, or may give rise, to frequent public inquiries. They clarify existing policy rather than announce new policy.

The Council intends that its regulations, voluntary standards, and Q & A's continue to be as simple and clear as possible; that they achieve policy goals effectively and efficiently; and that they impose no unnecessary burdens on the economy, on individuals, on public or private organizations, or on state and local governments. The Council will observe these principles in formulating all new and revised regulations, voluntary standards, and Q & A's.

Agenda and Oversight

As a matter of general policy, the Council will publish an agenda twice each year listing the significant voluntary standards and regulations under development or review. The publication dates will be announced in the Federal Register on the first Monday in October. Insofar as is possible, each agenda will:

(1) Describe the actions being considered;

(2) Set forth their legal basis;

(3) Indicate which actions will be the subject of regulatory analyses;

(4) List the name and telephone number of an agency official knowledgeable about each action;

(5) List existing regulations and standards scheduled to be reviewed; and

(6) Summarize the status of actions previously listed on the agenda.

The agenda will be approved by the Director and published in the Federal Register.

Public Participation

The Council has always sought to provide opportunities for the public to participate in developing new or revised voluntary standards or regulations. It will continue to do so. Significant proposed voluntary standards and regulations will be published in the Federal Register for advance comment. When the Council does not provide a full 60-day advance comment period, it will publish an explanation of the reasons. The Council continues to invite public comment on its standards, regulations, and Q & A's at any time.

Approval of Significant Standards and Regulations

The Director of the Council will approve each significant proposed voluntary standard and regulation before it is published in the Federal Register. Before approving a standard or regulation, the Director will first determine that:

(1) It is needed;

(2) It is written in plain English and is understandable to those who are expected to comply with it;

(3) Alternative approaches, public comments, direct and indirect effects, and new reporting and recordkeeping burdens have been adequately considered;

(4) The least burdensome acceptable alternative has been chosen; and

(5) The name, address and telephone number of a knowledgeable agency official are included.

Determining Significant Regulations

In determining whether a voluntory standard or regulation is significant, the Council will consider:

(1) The nature and extent of its direct and indirect effects;

(2) Its relationship to the standards or regulations of other programs and agencies;

(3) The type and number of individuals, businesses, organizations, and state and local governments affected; and

(4) The compliance and reporting burdens likely to be involved.

A standard or regulation that is determined to be significant will generally be accompanied by a statement to that effect when it is proposed.

Regulatory Analyses

The Council intends to prepare regulatory analyses for significant standards or regulations that will have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. In addition, a regulatory analysis may be prepared for any other standard or regulation at the discretion of the Director. A proposed regulation or standard will be considered to have major economic consequences if:

(a) It will have an annual effect on the economy of $100 million or more;

(b) It will result in a major increase in costs or prices for individual industries, instititions, levels of government, or geographic regions; or

(c) The Director determines that it will have a major effect on the economy.

If a regulatory analysis is prepared, the Council will make a draft available to the public by the time proposed standard or regulation is published in the Federal Register. The Council will make a final version available by the time final standard or regulation is published. Each regulatory analysis will contain a statement of the problem, a description of the major alternative ways of dealing with it, an analysis of the economic consequences of each of these alternatives, and an explanation of the reasons for choosing one alternative over another.

Review of Existing Requirements

The Council regularly reviews its existing voluntary standards and regulations. The Council will continue to review them:

(1) In response to public comment;

(2) When conditions affecting the standard or regulation change; and

(3) When there is a need to simplify or clarify them.

[FR Doc. 80-6582 Filed 2-29-80; 8:45 am]
BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amendment of a system of records

AGENCY: Department of the Navy (DON), Department of Defense.

ACTION: Notice of amendment to system of records.

SUMMARY: The Department of the Navy proposes to amend an existing system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below, followed by the system published in its entirety, as amended.

DATES: The system shall be amended as proposed without further notice in 30 calendar days from the date of this publication unless comments are received on or before April 2, 1980, which would result in a contrary determination.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to systems manager identified in the particular records system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350, telephone 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notice as prescribed by the Privacy Act of 1974, Title 5 U.S.C. Section 552a (Public Law 93-579) have been published in the Federal Register as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979.

FR Doc 79-36798 (44 FR 68947) November 30, 1979.

FR Doc 79-37052 (44 FR 74553) December 17, 1979.

The proposed amendment is not within the preview of the provisions of U.S.C. 552(o) of the Act which requires the submission of a new or altered system report.

H. E. Lofdahl,

Director Correspondence and Directives, Washington Headquarters Services, Department of Defense.

February 27, 1980.

Amendment

N00011 J07

System name:

Combined Federal Campaign (44 FR 74558)

Changes:

System name:

Delete the entire entry and substitute with the following: "Combined Federal Campaign/Navy Relief Society."

Authority for maintenance of the system:

Delete the entire entry and substitute with the following: "Executive Order 10927."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "Management of Combined Federal Campaign fund drive of CFC records. Management of Navy Relief Society fund drive of NRS records. Data released to respective campaign coordinators."

Retention and disposal:

Delete the entire entry and substitute with the following: "Records are maintained for one year or completion of next equivalent campaign and then destroyed."

N00011 J07

SYSTEM NAME:

Combined Federal Campaign/Navy Relief Society

SYSTEM LOCATION:

Organizational elements of the Department of the Navy as indicated in the directory of Department of the Navy acitivities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Extracts from payroll systems and adminsitrative personnel management systems. Contributor cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10927.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Management of Combined Federal Campaign fund drive of CFC records. Management of Navy Relief Society fund drive of NRS records. Data released to respective campaign coordinators.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, punched cards, and magnetic tape.

RETRIEVABILITY:

Name, SSN, case number, organization.

SAFEGUARDS:

Access provided on a need-to-know basis only. Locked and/or guarded office.

RENTENTION AND DISPOSAL:

Records are maintained for one year or completion of next equivalent campaign and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity in question. See directory of Department of the Navy mailing addresses.

NOTIFICATION PROCEDURE:

Apply to the Systems Manager.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the Systems Manager.

CONTESTING RECORDS PROCEDURES:

The agency's for contesting contents and appealing initial determinations by the individual concerned may obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Payroll files, adminsitrative personnel files, and contributors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-6599 Filed 2-29-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 27 March 1980 at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. I, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

February 27, 1980.

[FR Doc. 80-6550 Filed 2-29-80; 8:45 am]

BILLING CODE 3810-70-M

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 19–20 March 1980 at the Air Force Office of Scientific Research (AFOSR), Bolling AFB, Washington, D.C. 20332.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. I, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

February 27, 1980.

[FR Doc. 80-6551 Filed 2-29-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Photovoltaic Utilization Program Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Federal Photovoltaic Utilization Program Advisory Committee.

Date and time: Wednesday, March 19, 1980—9 a.m. to 4:30 p.m.

Place: Department of Energy, 1000 Independence Avenue SW, Forrestal Building—Room 6E069, Washington, DC 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW,

Forrestal Building—Room 8G087, Washington, DC 20585. Telephone: 202–252–5187.

Purpose of committee: The Committee was established by Pub. L. 95–619, Title V, to assist the Secretary in the establishment and conduct of a program to insure that photovoltaic electric systems acquired by the Federal Government reflect, to the maximum extent practicable, the most advanced and reliable technologies; to schedule such purchases so that they will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States; and to stimulate the private sector market for photovoltaic power systems.

Tentative Agenda

9 a.m.–11 a.m.—Briefing by DOE on Federal Photovoltaic Utilization Program.
11 a.m.–12 noon—Questions and Answers on FPUP.
12 noon–1 p.m.—Lunch.
1 p.m.–3 p.m.—Discussion and Resolution of Committee's Isues.
3 p.m.–4 p.m.—Assignment of Subcommittees.
4 p.m.–4:30 p.m.—Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room; Room 5B180, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, DC, on February 28, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-6712 Filed 2-29-80; 8:45 am]

BILLING CODE 6450-01-M

Procurement and Contracts Management Directorate; Alternative Fuels Production Financial Assistance; Notice of Program Solicitation Availability

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the earliest time practicable, the Department of Energy (DOE) has been authorized by Congress (P.L. 96–126) to provide financial assistance to incentivize and support the construction and operation of commercial scale alternative fuels production facilities.

Up to $100,000,000 is available for grants to support feasibility studies of projects leading to construction and operation of commercial scale facilities. Individual awards may not exceed $4,000,000.

An additional $100,000,000 is available for cooperative agreements with non-Federal entities to support commercial scale development of alternative fuel facilities. Individual awards may not exceed $25,000,000.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen L. Lake, Office of Procurement Operations, Procurement and Contracts Management Directorate, 400 First St. N.W., Washington, D.C. 20585. Telephone: 202/376–9487.

SUPPLEMENTAL INFORMATION: The program solicitation for grant applications for feasibility studies became available on February 25, 1980. Organizations desiring a copy of this solicitation should send a written request to: U.S. Department of Energy, Office of Procurement Operations, ATTN: Document Control Specialist, P.O. Box 2500, Washington, DC 20013, program solicitation #DE–PA01–80RA50185.

The solicitation for cooperative agreement proposals in connection with projects leading to the construction and operation of commercial scale alternative fuels production facilities also became available on February 25, 1980. Organizations desiring a copy of the cooperative agreements solicitation should send a written request to: U.S. Department of Energy, Office of Procurement Operations, ATTN: Document Control Specialist, P.O. Box 2500, Washington, DC 20013, solicitation #DE–PA01–80RA50204.

Individuals and organizations who requested to be placed on the presolicitation conference mailing list for these projects in response to a Commerce Business Daily announcement January 11, 1980, need not submit a request to these solicitations.

Dated: February 25, 1980.

Hilary J. Rauch,

Deputy Director, Procurement and Contracts, Management Directorate.

[FR Doc. 80-6519 Filed 2-29-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlement Notice for December 1979

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: December 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for December 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by February 29, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by March 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128I, Washington, D.C. 20461 (202) 254–8660.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585 (202) 252–6911.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR § 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for December 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in §211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); January 1980 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of

the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for December 1979 is calculated to be .214510.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of December 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .657001 of a barrel of deemed old oil.

The issuance of entitlements for the month of December 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of December 1979 is hereby fixed at $21.91, which is the exact differential as reported for the month of December between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of December 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of December 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of December 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the appendix are entitlements issued pursuant to the provisions of 10 CFR section 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the December 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its December 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d)(6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of December 1979, imports of residual fuel oil eligible for entitlements issuances totaled 26,748,749 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	2,382,917	23°
California Upper Tier Crude Oil	4,883,254	26°

The total number of entitlements required to be purchased and sold under this notice is 22,939,137.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for December 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of barrels per day	Weighted average cost	Percent of total volumes[1]
Lower tier	1,799	$6.88	11.5
Upper tier	2,895	14.40	18.4
Exempt domestic:			
Alaskan	1,376	22.05	8.8
Heavy oil	303	24.43	2
Naval petroleum reserve	118	28.85	0.8
Newly-discovered	271	36.73	1.7
Stripper	1,635	33.43	10.4
Tertiary	5	28.44	0.03
Total domestic	8,401	19.03	53.5
Total imported	7,293	28.91	46.5
Total uncontrolled (exempt domestic and imported	11,000	28.79	70.1
Total reported crude oil receipts	15,694	23.63	
Total reported crude oil runs to stills	15,642		

[1] Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for December 1979 must be made by February 29, 1980.

On or prior to March 10, 1980, each firm which is required to purchase or sell entitlements for the month of December 1979 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of December. The monthly transaction report forms for the month December have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by February 29, 1980 are requested to contact the ERA at (202) 254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to February 29, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal

with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 2, 1980.

Issued in Washington, D.C., on February 26, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

BILLING CODE 6450-01-M

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
-CONSOLED-SALES	-64,694	0	0	0	0	0	64,694 1/
A-JOHNSON	0	85,788	0	26,288	0	0	85,788
ADM	0	11,464	0	0	0	0	11,464
AKRON-OHIO	0	1,432	0	0	0	0	1,432
ALLIED	53,179	57,026	0	0	0	0	3,847
AMER-PETROFINA	540,180	942,417	0	0	0	0	402,237
AMERADA-HESS	1,291,545	3,927,774	0	122,850	0	0	2,636,229
AMERICAN-CAN-CO	0	18,375	0	0	0	0	18,375
AMES-IOWA	0	703	0	0	0	0	703
AMOCO	10,625,800	6,418,293	0	0	0	4,207,507	0
ANCHOR	-557	55,249	0	0	-70	0	55,816
ARCO	3,151,074	5,306,802	0	0	504	0	2,155,728
ARIZONA	96,002	31,308	0	0	2,469	64,694 1/	0
ASAMERA	125,509	110,260	0	0	0	15,249	0
ASHLAND	1,073,258	2,736,781	0	0	0	0	1,663,523
BAYOU	27,354	28,587	0	0	0	0	1,233
BEACON	44,994	93,713	17,928	0	2,953	0	48,719
BELCHER	0	95,803	0	95,803	0	0	95,803
BI-PETRO	14,304	14,543	0	0	0	0	239
BRUIN	200,045	112,195	0	0	0	87,850	0
C&H	0	197	0	0	0	0	197
CADENCE-CHEM	0	13,834	0	0	0	0	13,834
CALCASIEU	60,890	82,884	0	0	0	0	21,994
CALUMET	16,571	18,178	0	0	0	0	1,607
CANAL	129,464	49,540	0	0	0	79,924	0
CARBONIT	-16,336	74,387	0	0	0	0	90,723
CARIBOU	82,321	40,416	0	0	0	41,905	0
CASTLE	0	26,828	0	26,828	0	0	26,828
CENTRAL	0	15,832	0	15,832	0	0	15,832
CHAMPLIN	1,678,318	1,365,958	0	0	78,994	312,360	0
CHARTER	255,776	399,181	-4,032	0	0	0	143,405
CHARTER-BAHAMAS	0	225,025	0	225,025	0	0	225,025
CHEVRON	6,595,511	7,889,896	0	23,990	58,796	0	1,294,385
CIBRO	0	136,407	0	59,369	0	0	136,407
CITGO	2,075,035	1,724,747	0	0	0	350,288	0
CLAIBORNE	69,330	25,931	0	0	0	43,449	0
CLARK	490,670	710,213	0	0	0	0	219,543
COASTAL	185,348	1,543,519	29,188	92,383	0	0	1,358,171
COASTAL-PETRO	0	52,489	0	0	0	0	52,489
COLONIAL	0	57,720	0	57,720	0	0	57,720
COLUMBUS-OHIO	0	1,168	0	0	0	0	1,168
CONOCO	2,845,136	2,309,453	0	27,008	31,269	535,683	0
CONSUMERS-POWER	0	49,510	0	49,510	0	0	49,510
COPANO	3,392	16,199	0	0	0	0	12,807
CORAL	0	182,581	0	0	0	0	182,581
CORCO	0	700,282	0	161,566	0	0	700,282
CRA-FARMLAND	340,709	525,249	0	0	0	0	184,540
CROSS	58,742	68,142	0	0	0	0	9,200
CROWN	299,453	615,908	0	0	0	0	316,455
CRYSTAL-OIL	133,938	93,489	0	0	0	40,449	0
CRYSTAL-REF	0	18,098	0	0	0	0	18,098
DELTA	261,140	313,576	0	0	0	0	52,436
DEMENNO	0	30,660	0	0	0	0	30,660
DETROIT-ED	0	49,689	0	49,689	0	0	49,689
DFSC	0	10,462	0	10,462	0	0	10,462
DIAMOND	537,462	359,469	0	0	0	177,993	0
DILLMAN	0	274	0	0	0	0	274
DORCHESTER	16,871	312,314	0	0	0	0	295,443
DOW	82,573	83,629	0	0	0	0	1,056
E-SEABOARD	0	34,504	0	34,504	0	0	34,504
ECO	12,019	41,004	0	0	1,208	0	28,985
EDDY	55,942	29,249	0	0	0	26,593	0
ENERGY-COOP	0	691,964	0	0	0	0	691,964
ENTERPRISE	0	15,751	0	15,751	0	0	15,751
ERGON	47,550	74,513	0	0	0	0	26,963
ERICKSON	159,558	93,839	0	0	0	65,719	0
ESSEX-UNION	0	207	0	0	0	0	207
EVANGELINE	37,613	18,001	0	0	0	19,612	0

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
EXXON	12,766,295	9,252,859	0	679,281	0	3,513,436	0
EZ-SERVE	1,584	27,769	0	0	0	0	26,185
FARMERS-UN	184,309	229,903	0	0	0	0	45,594
FLETCHER	113,296	200,336	0	0	0	0	87,040
FLINT	4,685	3,554	0	0	0	1,131	0
FRIENDSWOOD	121,850	53,745	0	0	0	68,105	0
FUNDING	64,007	28,235	0	0	0	35,772	0
GARY	192,066	70,508	0	0	0	121,558	0
GETTY	1,140,995	1,338,602	0	0	0	0	197,607
GIANT	2,214	38,976	0	0	0	0	36,762
GIBSON	0	29,782	0	0	0	0	29,782
GLACIER-PARK	109,325	33,117	0	0	0	76,208	0
GLADIEUX	72,759	84,455	0	0	0	0	11,696
GOLDEN-EAGLE	0	77,807	0	0	0	0	77,807
GOLDKING	200,493	123,220	0	0	0	77,273	0
GOOD-HOPE	25,962	386,309	0	0	0	0	360,347
GUAM	0	66,878	0	0	0	0	66,878
GULF	7,309,151	5,841,634	0	62,598	12,487	1,467,517	0
GULF-ENERGY	33,132	41,846	04/	0	0	0	8,714
GULF-STS	178,683	84,039	0	0	0	94,644	0
HIRI	0	383,563	0	0	0	0	383,563
HOWELL	435,282	231,282	0	0	0	204,000	0
HRR	0	8,098	0	0	0	0	8,098
HUDSON-OIL	37,769	126,096	0	0	0	0	88,327
HUNT	245,475	193,864	0	0	0	51,611	0
HUNTWAY	5,129	34,382	0	0	0	0	28,253
HUSKY	739,145	739,145	421,5652/	0	0	0	0
INDEPENDENT-REF	-170,796	107,460	0	0	0	0	278,246
INDIANA-FARM	37,229	148,590	0	0	0	0	111,361
INDUST-FUEL	29,348	3,201	0	0	0	26,147	0
INTER-PROCESS	42,823	178,854	0	0	0	0	136,031
IRVING	0	21,521	0	21,521	0	0	21,521
KENCO	55,828	23,340	0	0	0	32,488	0
KENTUCKY	18,427	18,199	8,262	0	0	228	0
KERN	222,828	106,767	0	0	4,990	116,061	0
KERR-MCGEE	1,162,624	775,868	0	0	0	386,756	0
KOCH	513,775	886,551	0	0	0	0	372,776
LA-COUNTY	0	27,657	0	0	0	0	27,657
LAGLORIA	358,230	218,329	0	0	0	139,901	0
LAKE-CHARLES	68,117	43,069	0	0	0	25,048	0
LAKESIDE	45,174	27,278	0	0	0	17,896	0
LAKETON	153,624	110,566	66,785	0	0	43,058	0
LITTLE-AMER	1,423,768	547,686	0	0	0	876,082	0
LOS-ANGELES-CA	0	644	0	0	0	0	644
LOUISIANA-LAND	786,601	288,516	0	0	0	498,085	0
MACMILLAN	70,669	89,104	0	0	4,980	0	18,435
MADISON-CHATHAM	0	16	0	0	0	0	16
MADISON-WI	0	997	0	0	0	0	997
MALLARD	117,212	39,364	0	0	0	77,848	0
MANATEE	0	4,329	05/	0	0	0	4,329
MARATHON	4,321,880	3,254,761	0	0	0	1,067,119	0
MARION	-17,311	104,555	0	0	0	0	121,866
MARLEX	896	80,227	0	0	85	0	79,331
METROPOLITAN	0	159,217	0	159,217	0	0	159,217
MID-AMER	771	22,544	0	0	0	0	21,773
MIDWEST-SOLV	0	784	0	0	0	0	784
MILWAUKEE-WI	0	3,544	0	0	0	0	3,544
MOBIL	5,162,393	5,230,549	0	54,908	22,721	0	68,156
MOBILE-BAY	1,971	81,681	0	0	0	0	79,710
MOHAWK	366,095	186,719	0	0	15,122	179,366	0
MONOCO	0	15,794	0	15,794	0	0	15,794
MONSANTO	417,609	246,420	0	0	0	171,189	0
MORRISON	21,188	6,705	0	0	0	14,483	0
MOUNTAINEER	4,532	1,289	0	0	0	3,243	0
MT-AIRY	118,935	115,760	0	0	0	3,175	0
MURPHY	1,240,251	819,051	0	0	0	421,200	0
N-AMER-PETRO	81,468	139,548	0	0	0	0	58,080
NASHVILLE-TENN	0	3,043	0	0	0	0	3,043

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL

DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
NATL-COOP	163,063	343,828	0	0	0	0	180,765
NAVAJO	422,795	216,907	0	0	0	205,888	0
NEVADA	987	19,321	0	0	0	0	18,334
NEW-EDGINGTON	217,179	162,735	0	0	23,202	54,444	0
NEW-ENGL-POWER	0	23,580	0	23,580	0	0	23,580
NEWHALL	53,763	115,989	0	0	3,753	0	62,226
NORTHEAST-PETRO	0	47,796	0	47,796	0	0	47,796
NORTHLAND	39,179	39,179	27,211	0	0	0	0
NORTHVILLE	0	20,995	0	20,995	0	0	20,995
OKC	153,143	158,171	0	0	0	0	5,028
OKLA-REF	58,112	115,081	0	0	0	0	56,969
OXNARD	462	18,101	0	0	58	0	17,639
PEERLESS	0	8,154	0	0	0	0	8,154
PENNZOIL	551,660	365,747	0	0	0	185,913	0
PESTER	167,362	157,877	0	0	0	9,485	0
PETRACO-VALLEY	0	12,971	0	0	0	0	12,971
PETRO-HEAT-PA	0	4,612	0	4,612	0	0	4,612
PHILLIPS	2,361,849	1,792,859	0	0	-809	568,990	0
PHILLIPS-PR	0	226,389	0	226,389	0	0	226,389
PIONEER	82,409	37,412	0	0	0	44,997	0
PLACID	658,538	293,104	0	0	0	365,434	0
PLATEAU	226,971	154,738	0	0	0	72,233	0
PORT	8,007	11,354	0	0	0	0	3,347
POWERINE	157,879	208,201	0	0	15,558	0	50,322
PRIDE	165,063	233,800	0	0	0	0	68,737
QUAD	0	19,838	0	0	0	0	19,838
QUAKER-ST	30,330	187,450	0	0	0	0	157,120
QUITMAN	0	54,419	0	0	0	0	54,419
RAHWAY	0	155	0	0	0	0	155
RANCHO-REF	0	26,068	0	0	0	0	26,068
RESCO	0	8,015	0	0	0	0	8,015
RESERVE-SYN	0	1,342	0	0	0	0	1,342
RICHARDS	103	27	0	0	0	76	0
ROAD-OIL	0	41,800	0	0	0	0	41,800
ROCK-ISLAND	189,998	226,945	0	0	0	0	36,947
SABER-TEX	34,746	89,299	0	0	0	0	54,553
SABRE-CAL	439	91,048	0	0	-35	0	90,609
SAGE-CREEK	7,306	2,521	0	0	0	4,785	0
SALEM-VA	0	3,607	0	0	0	0	3,607
SAN-JOAQUIN	0	76,621	0	0	0	0	76,621
SCALLOP	0	185,749	0	185,749	0	0	185,749
SCANOIL	0	71,554	0	71,554	0	0	71,554
SEAVIEW	0	213,048	0	0	0	0	213,048
SECTOR	67,755	25,994	0	0	0	41,761	0
SEMINOLE	11,125	78,428	0	0	0	0	67,303
SENTRY	0	94,061	0	0	0	0	94,061
SHELL	8,747,455	5,973,021	0	0	35,219	2,774,434	0
SHEPHERD	41,819	61,096	0	0	0	0	19,277
SIGMOR	25,215	154,272	0	0	0	0	129,057
SILVER-EAGLE	2,306	1,591	0	0	0	715	0
SLAPCO	139,772	87,371	0	0	0	52,401	0
SMRSA	0	97	0	0	0	0	97
SO-HAMPTON	32,630	109,030	0	0	0	0	76,400
SOHIO	1,283,187	3,266,345	0	0	0	0	1,983,158
SOMERSET	22,115	22,955	0	0	0	0	840
SOUND	0	65,406	0	0	0	0	65,406
SOUTHERN-UNION	188,130	196,378	0	0	0	0	8,248
SOUTHLAND	362,392	181,407	20,902	0	0	180,985	0
SOUTHWESTERN-	9,865	4,746	0	0	0	5,119	0
SPRAGUE	0	75,462	0	75,462	0	0	75,462
STEUART	0	80,139	0	80,139	0	0	80,139
SUNLAND	1,624	67,514	0	0	-120	0	65,890
SUNOCO	3,816,179	3,265,642	0	0	0	550,537	0
SWANN	0	54,278	0	54,278	0	0	54,278
T&S	5,878	55,518	0	0	0	0	49,640
TARRICONE	0	13,415	0	13,415	0	0	13,415
TENNECO	1,148,533	592,233	0	0	3,289	556,300	0
TESORO	431,851	461,143	0	0	0	0	29,292

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
DECEMBER 1979

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
TEXACO	7,898,539	7,205,497	0	318,458	-4,535	693,042	0
TEXAS-AMERICAN	102,186	50,524	0	0	0	51,662	0
TEXAS-ASPH	36,636	11,016	0	0	0	25,620 3/	0
TEXAS-CITY	549,908	705,173	0	0	0	0	155,265
THAGARD	61,552	76,012	0	0	4,980	0	14,460
THRIFTWAY	54,610	33,563	0	0	0	21,047	0
THUNDERBIRD	60,238	67,117	0	0	0	0	6,879
TIPPERARY	45,475	47,431	0	0	0	0	1,956
TONKAWA	101,673	69,139	0	0	0	32,534	0
TOSCO	953,870	1,168,530	0	0	30,960	0	214,660
TOTAL-PETROLEUM	122,447	571,857	0	0	0	0	449,410
UCC-CARIBE	0	169,303	0	169,303	0	0	169,303
UNI-REF	0	114,368	0	0	0	0	114,368
UNION-OIL	3,038,137	2,702,215	0	0	-464	335,922	0
UNTD-REF	116,970	230,983	0	0	0	0	114,013
US-OIL	14,293	80,180	0	0	1,038	0	65,887
USA-PETROCHEM	101,945	90,460	0	0	6,136	11,485	0
VAL-VERDE	69	3,779	0	0	0	0	3,710
VICKERS	187,867	0	0	0	0	187,867	0
VICKSBURG	3,274	37,936	0	0	0	0	34,662
WALLER	0	7,508	0	7,508	0	0	7,508
WARRIOR	34,510	38,689	22,527	0	0	0	4,179
WEST-COAST	17,371	54,602	0	0	2,416	0	37,231
WESTERN	93,506	74,227	0	0	0	19,279	0
WINSTON	106,825	100,546	0	0	0	6,279	0
WIREBACK	0	314	0	0	0	0	314
WITCO	32,616	140,301	0	0	849	0	107,685
WYATT	0	39,058	0	39,058	0	0	39,058
WYOMING	7,559	68,828	0	0	0	0	61,269
YOUNG	33,442	52,501	34,020	0	0	0	19,059
TOTAL	110,198,586	110,198,586	644,356	3,426,193	357,503	22,939,137	22,939,137

1/ See discussion in Notice.

2/ This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in Husky Oil Co. v DOE, et al., Civ Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded _____F.2d____(No. 10-18 TECA, August 10, 1978).

3/ This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v FEA, Civ Action No. 4-75-268 (N.D.Tex., filed October 31, 1975)

4/ No entitlement purchase obligation was imposed on this company in the November list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Texas, 12/14/79

5/ No entitlement purchase obligation was imposed on this company in the November list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Fla., 1/18/80

[FR Doc. 80-6522 Filed 2-29-80; 8:45 am]
BILLING CODE 6450-01-C

Texas Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Final Action taken on a Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action on a Consent Order.

EFFECTIVE DATE: February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

SUPPLEMENTAL INFORMATION: On November 26, 1979, the ERA of the DOE executed a proposed Consent Order with Texas Oil and Gas Corporation (TXO) of Dallas, Texas. Under 10 C.F.R. 205.199I(c), a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order (F.R. Vol. 44 No. 246, December 20, 1979). At the conclusion of the thirty-day comment period, the ERA had received certain notices of claims against the refund amount of the Consent Order which have been forwarded to the Director, Resource Management Branch, Office of Enforcement, U.S. Department of Energy, attention: Special Refund Coordinator, 2000 M Street, N.W., (Room 5128), Washington, D.C. 20461. There were no objections received to the Consent Order. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and TXO is an appropriate resolution of the compliance proceeding which it described, and it shall become final and effective as proposed, without modification, upon publication of this Notice. Procedures and requirements for documenting proof of claims are being developed. Refunded overcharges received, if any, will remain in a suitable account established pursuant to Subpart V of 10 C.F.R. 205, pending the determination of their proper disposition.

Issued in Dallas, Texas on the 20th day of February 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 80-6520 Filed 2-29-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-005; OFC Case No. 56400-9073-01-11]

Shell Oil Co.; Powerplant and Industrial Fuel Use; Petition for Exemption

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemptions Pursuant to the Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: In the matter of OFC Case Nos. 56400-9073-01-11, 56400-9073-02-11, 56400-9073-03-11, 56400-9073-01-12, 56400-9073-02-12, 56400-9073-03-12. On January 25, 1980, Shell Oil Company (Shell) filed a petiton with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting three major fuel burning installations (MFBI's) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et. seq.*), which prohibits the use of petroleum and natural gas as a primary energy source in certain new MFBI's. Criteria for petitioning for exemptions from the prohibitions of FUA are published at 44 FR 28530 (May 15, 1979) and at 44 FR 28950 (May 17, 1979) (Interim Rules).

The MFBI's for which the petition is filed are three identical field erected boilers (identified as Boilers EPP-NCR-BLR-1, 2 and 3) to be installed at Shell's new olefins installation located at Norco, Louisiana. Each unit has a design heat input rate of 820 million Btu's per hour and each unit will be capable of burning coal (lignite), petroleum and a pyrolysis pitch/pyrolysis gas-oil mixture. Under § 505.28 of the Interim Rules, Shell has requested a permanent exemption for certain fuel mixtures for each of the three units.

FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision in this matter will determine whether the three boilers will be granted permanent exemptions to use certain fuel mixtures.

Concurrent with this petition, Shell requested temporary public interest exemptions under § 505.15 of the Interim Rules to permit operation of the three boilers during an "initial startup until production of the compliance fuel, pyrolysis pitch/pyrolysis gas-oil from the petrochemical plant the boiler is intended to support, becomes fully available." Shell estimates this period to begin in mid-1980 and end early 1982. Shell states that "the boilers will be brought on-steam in sequence in order to debug and prove the reliability of each boiler." It further states that, "this operation must be accomplished prior to startup of the petrochemical plant itself." The plant is expected to be started up in early 1981, debugged, made reliable and producing the by-product fuel by January 1982. ERA determined that the petition for the temporary public interest exemptions is incomplete and in accordance with § 501.3(d) of the Interim Rules, ERA notified Shell that its petition for temporary public interest exemptions, as filed, was not acceptable.

ERA has determined that the petition for permanent fuel mixtures exemptions is complete in accordance with the Interim Rules. Pursuant to § 501.3(c) of the Interim Rules, ERA notified Shell that its petition for permanent exemptions, as filed, was acceptable. ERA retains the right to request additional relevant information from Shell at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the Supplementary Information section below.

As provided for in Section 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before April 17, 1980. A request for public hearing must also be made within this same 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA-FC-80-005 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 254-7814.

James Renjilian, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G-087,

Washington, D.C. 20585, Phone (202) 252–2967.
Edward J. Peters, Jr., New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3126–A, Washington, D.C. 20461, Phone (202) 634–7593.

SUPPLEMENTARY INFORMATION: ERA published in the Federal Register on May 15 and 17, 1979, its Interim Rules implementing the provisions of Title II of FUA. The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption to do so has been granted by ERA.

The MFBI's for which the permanent fuel mixtures exemption are requested are three identical field-erected boilers (identified as Boilers EPP–NCR–BLR 1, 2 and 3). Each unit has a design heat input rate of 820 million Btu's per hour and each has a steam generating capacity of 600,000 pounds per hour. All three units are capable of burning coal (lignite), petroleum, and a pyrolysis pitch/pyrolysis gas-oil mixture. Shell states that the steam generated will be used in the production of ethylene, propylene, butadiene, benzene, ethane and unleaded gasoline components in its new petrochemical plant at Norco, Louisiana.

Section 505.28 of the Interim Rules provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum. To qualify, a petitioner must demonstrate to the satisfaction of ERA that:

(1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

If the exemptions are granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources to be used in the installation.

In addressing these eligibility requirements, and the evidentiary requirements in § 505.28(a)(1) and (c)(4), Shell states that it will be using a pyrolysis pitch and gas-oil mixture as a primary energy source in each unit. Shell takes a position that pyrolysis pitch is an unmarketable waste by-product and, therefore, is an alternate fuel. In a separate request submitted with its petition for exemptions, Shell asks ERA to determine that the pyrolysis pitch produced as a residue in its naptha and gas-oil cracking units is commercially unmarketable by reason of its quality, specifically, pursuant to § 507.4(e)(1)(i) of the Interim Rules, that the by-product (pitch) could not reasonably be expected to be used in non-refinery operations. ERA is presently analyzing the evidence and information furnished by Shell in support of its position as a separate matter, distinct from this proceeding. With respect to the gas-oil to be used in the mixture, Shell certifies that the total amount of this petroleum product that is proposed to be used in each of the boilers will not exceed 25 percent of the total annual Btu heat input of each of the three boilers.

Shell contends that the gas-oil supplementation of the pyrolysis pitch is required because pyrolysis pitch is extremely viscous. They propose to mix gas-oil with the residue as it leaves the process unit where it is manufactured. Gas-oil is expected to be blended with the pyrolysis pitch only in amounts "to reduce its viscosity to a range that allows the mixture to be pumped, atomized and burned efficiently in the boiler." The steam from the boilers supply process steam to the units manufacturing the petrochemicals and residue by-product.

In accordance with Part 502 of the Interim Rules, in support of its petition, Shell has addressed the appropriate Fuels Decision Report (FDR) requirements including design specifications for the boiler for which this exemption is requested and an engineering assessment of the proportions of pyrolysis gas oil needed to maintain operational reliability and a reasonable level of fuel efficiency.

ERA hereby gives notice that Shell's petition for permanent fuel mixtures exemptions has been accepted as adequate for filing. ERA retains the right to request additional relevant information from shell at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. As set forth in § 501.3(g) of the Interim Rules, the acceptance of the petition by ERA does not constitute a determination that Shell is entitled to the exemptions requested.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C., Monday–Friday, 8:00 am–4:30 pm.

Issued in Washington, D.C., on February 26, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–6580 Filed 2–29–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; February 4 Through February 8, 1980

Notice is hereby given that during the period February 4 through February 8, 1980, the Proposed Decisions and Orders which are summarized below are issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of

1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

February 27, 1980.

Proposed Decisions and Orders

Ewing Oil Company, Inc., Hagerstown, Md., BEE-0459, gasohol

Ewing Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Ewing to receive an increased allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On February 5, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

H&H Oil Co., Inc., Dickson, Tenn., DEE-5975, gasohol

On September 24, 1979, H&H Oil Company, Inc., filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. This exception request, if granted, would increase the firm's allocation of unleaded motor gasoline so that it could blend and sell gasohol. On February 8, 1980, the Office of Hearings and Appeals issued a Proposed Decision and Order in which it tentatively granted the firm an increase of 200,000 gallons per month in its allocation of unleaded motor gasoline to facilitate the firm's blending and marketing of gasohol.

Southwest Research Institute, San Antonio, Tex., DEE-5896, motor gasoline, diesel fuel, aviation gasoline

Southwest Research Institute filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Southwest Research Institute to purchase itsicurrent requirement of motor gasoline from its base period suppliers of that product and its current requirement of diesel fuel and aviation gasoline from its present suppliers of those products. On February 5, 1980, the DOE issued a Proposed Decision and Order which determined that the firm's exception request should be granted, with regard to motor gasoline, and dismissed relevant to diesel fuel and aviation gasoline.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Benson Gen. Store, BXE-0645, Benson, VT.
F. S. Williams Country Store, DEE-3469, Ethel, LA.
Gold Oil Co., BXE-0454, Belleville, IL.
P&W Oil Co., Inc., BXE-0559, Athen, AL.
Tuscaloosa City School System, BEE-0246, Tuscaloosa, AL.
Broad & Parham Exxon, DEE-7742, Richmond, VA.
Cliff's Sunoco, DEE-4129, Boca Raton, FL.
High-Eighty Exxon, DEE-0913, Longview, TX.
Kenilworth Amoco, DEE-3661, Wash., DC.
P&L Shell Service, DEE-7207, Welch, WV.
Patriot Petroleum, BEE-0222, Columbia, SC.
Pennant Petroleum, DEE-3931, Tulsa, OK.

[FR Doc. 80-6581 Filed 2-29-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Consent Order With Standard Oil Co. (Indiana); Correction

AGENCY: Department of Energy (DOE).

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment: Correction.

SUMMARY: On February 25, 1980, the Department of Energy's Office of Special Counsel for Compliance (OSC) published a notice of proposed consent order with Standard Oil Company (Indiana) for public comment. 45 FR 12287. Although OSC properly indicated that it would receive comments on the proposed consent order for not less than 30 days following publication of the notice in the Federal Register, OSC inadvertently stated the comment expiration date to be March 24, 1980. The correct date by which written comments must be received for consideration is March 27, 1980.

Issued in Washington, D.C., February 28, 1980.

Avrom Landesman,

Deputy Special Counsel for Compliance.

[FR Doc. 80-6600 Filed 2-29-80; 10:54 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1426-8]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review purusant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of February 18, 1980, to February 22, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from February 29, 1980, and will end on April 14, 1980. The 30-day review period for final EIS's as calculated from February 29, 1980, will end on March 31, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW., Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of February 18, 1980, to February 22, 1980, the 30-day review period will be calculated from February 29, 1980. The review period will end on March 31, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of February 18, 1980, to February 22, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, state(s) and county(ies) of the

EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: February 27, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I.—EIS's Filed With EPA During the Week of February 18 Through 22, 1980

Department of Agriculture

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Soil Conservation Service

Draft

Hogansburg Agricultural Land Drainage, St. Lawrence and Franklin Counties, New York, February 21: Proposed is an agricultural land drainage plan for the Hogansburg Watershed in St. Lawrence and Franklin Counties, New York. The watershed encompasses approximately 3,141 acres of cropland. The works of improvement include approximately 9.5 miles of channel modification to be coordinated with on farm drainage. Proper drainage outlets would be provided through channel modification with subsurface and surface drainage. (EIS Order No. 800123.)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Final

Cordova Small Boat Harbor Expansion, Alaska, February 21: Proposed is the expansion of an existing 23-acre small boat harbor at Cordova, Alaska. A westward expansion in rectangular configuration would effectively add 20 acres of protected moorage area for the design fleet of 540 commercial and recreational vessels. The expansion would require the removal of an existing westerly breakwater 1,400 feet in length, the extension of an existing 1,100-foot long southerly silt barrier by 650 feet and the construction of two new westerly rubblemound breakwaters. Dredge spoil would be deposited in an intertidal fill site and a ten acre parking/staging area (Alaska District). Comments made by: DOI, DOC, EPA, COE, State agencies. (EIS Order No. 800121.)

Hammond Bay Harbor Shore Damage Mitigation, Presque Isle County, Mich., February 21: Proposed is a shore damage mitigation program, for Federal navigation structures in the vicinity of Hammond Bay Harbor in Presque Isle County, Michigan. The plan consists of a structural approach entailing the construction of an artificially-filled groin at the site of severe harbor damage. The basic elements of the program are: (1) groin structures, (2) initial beach fill north of the groin, and (3) shoreline modification resulting from the first two construction aspects. Ten alternatives are considered (Detroit District). Comments made by: AHP, USDA, DOC, HEW, DOI, DOT, EPA, State agencies. (EIS Order No. 800120.)

Final

Randleman Lake, Deep River, Guilford and Randolph Counties, N.C., February 21: Proposed is the construction and operation of Randleman Lake located in Guilford and Randolph Counties, North Carolina. The Lake would be a 2,045 acre (conservation pool) reservoir and would include 7,075 acres of land for a variety of use. The project would include: (1) Construction of an earth dam, spillway and multi-level outlet structure; and (2) Relocation of roads and utilities. The alternatives consider: (1) Structural measures, (2) Water supply nonstructural measures, (3) Recreation, (4) Flood control, and (5) Environmental quality needs (Wilmington District). Comments made by: EPA, DOE, HEW DOI, USDA, DOT, State and local agencies. (EIS Order No. 800118.)

Draft Supplement

Rouge River Basin, Elk Creek Lake (DS–1), Jackson County, Oreg., February 21: This statement supplements a final EIS, No. 720804, filed 9–17–71, concerning flood control in the Rouge River Basin. This supplement proposes the construction and operation of Elk Creek Lake located in Jackson County, Oregon. Planned works include construction of a 238-foot high rack fill dam, approximately 1.7 miles upstream from its confluence with the Rouge River, which would impound 101,000 acre-feet of water at full pool. The alternatives consider: (1) Flood plain management, (2) Watershed management, (3) A levee system, and (4) A single-purpose dam. This supplement replaces a draft supplement, No. 750888, filed 6–20–75 (Portland District). (EIS Order No. 800122.)

ENVIRONMENTAL PROTECTION AGENCY

EPA, Headquarters

Contact: Mr. David Noble, Office of Solid Waste (WH–564), U.S. Environmental Protection Agency, 401 M Street Southwest, Washington, D.C. 20460, (202) 755–9125.

Final

Solid Waste Disposal Facilities, Classification, Regulatory, February 19: This action prescribes a new set of regulations which set minimum criteria for classifying solid waste disposal facilities according to their probability of causing adverse impacts on health and the environment. Facilities not meeting the criteria are classified as open dumps, are prohibited and must be closed or upgraded according to a state established compliance schedule containing an enforceable sequence of actions leading to compliance. The criteria in these regulations also partially fulfill requirements that EPA develop guidelines for the disposal or utilization of sludge. (SW–821). Comments made by: EPA, DOE, HEW, DOI, DOC, State and local agencies, groups and businesses. (EIS Order No. 800114.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capital Street, NE, Washington, DC 20426, (202) 357–8228.

Draft Supplement

Zachary-Fort Lauderdale Pipeline (DS–1), several counties in Louisiana, Mississippi, Alabama, Flordia, February 21: This statement supplements a final EIS, No. 760702, filed 5–12–76. Proposed is approval of an application to abandon 889 miles of 24-inch diameter pipeline facilities for conversion to transport light petroleum products from the gulf coast of Florida. The present system extends from Starr County, Texas to Dade County, Florida, and is about 90 percent looped, principally with a 30-inch diameter pipeline, from Zachary, Louisiana to Port Everglades, Florida. The looping between Zachary and Port Everglades would be completed. This project would traverse the States of Louisiana, Mississippi, Alabama, and Florida (FERC/EIS–0016–DS). (EIS Order No. 800125.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Draft

Woodlake Trails, Village of Hanover Park, Du Page County, Ill., February 21: Proposed is the issuance of HUD home mortgage insurance for the Woodlake Trails I and II Developments located in Du Page County, Illinois. The developments will encompass 1,573 single family housing units on 310 acres. This statement also covers a 1,145 unit subdivision located immediately to the south of the subject development (HUD–R05–EIS–79–08–(D)). (EIS Order No. 800124.)

Draft Supplement

Jonathan New Community, Chaska, Carver County, Minn., February 22: Proposed is the acquisition and disposition of Jonathan New Community in Chaska, Carver County, Minnesota. The actions involved are: (1) Termination of title IV status and assistance, (2) complete acquisition through judicial foreclosure, (3) implement a plan of disposition, and (4) provide limited funding

for operation of the Jonathan Association. The alternative considered entails a contested foreclosure with indefinite period of development. (EIS Order No. 800128.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

California Desert Conservation Area, several counties in California, February 21: Proposed is a management plan for the California Desert Conservation Area. The area encompasses 12.1 acres of Federal owned land in several counties of California. Four alternative plans have been developed which provide designations of: (1) Intensive use and development, (2) Moderate use with competing resource tradeoffs, (3) Limited use favoring protection of sensitive resources, and (4) Controlled use preserving wilderness values. The alternatives include: (1) No action, (2) Protection-oriented plan, (3) Balanced plan, (4) Use-oriented plan. (DES-80-4). (EIS Order No. 800126.)

Final

CO_2 Pipeline and Related Facilities, Right-of-Way, several counties in Colorado, New Mexico, Texas, February 20: Proposed is the designation of rights-of-way for a pipeline and related facilities to transport CO_2 from southwest Colorado through New Mexico to the Wasson Oil Field near Denver City, Texas and associated drilling authorizations within the CO_2 well field. Components of the proposed actions are: A CO_2 well field in southwest Colorado consisting of 140 wells and 13 central facilities with the necessary access roads and connecting pipeline, a main pipeline 478 miles long, injection facilities in the oil field, a microwave communication system of 14 towers, and electric transmission lines to provide necessary power requirements (DES-79-37). Comments made by: AHP, USDA, ICC, COE, HEW, HUD, DOI, EPA, State and local agencies, individuals and businesses. (EIS Order No. 800117.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20423, (202) 275-7658.

Draft

Golden Triangle R.R. Company, Lowndes County, Miss., February 22: Proposed is approval of a petition by the ICC for the construction and operation of an 8.8 mile shortline, common carrier railroad in Lowndes County, Mississippi. The line will connect a proposed Weyerhaeuser pulp and paper facility with an existing Illinois Central Gulf Railroad (ICG) mainline. In a related action the company has applied for 7.5 miles of trackage rights over the ICG and Frisco to an interchange yard two miles north of Columbus. (Finance Docket No. 29170 and 29220). (EIS Order No. 800129.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Final

U.S. 20 and MA-85, Marlborough, Middlesex County, Mass., February 21: The proposed action is the relocation of U.S. 20 and MA-85 in the city of Marlborough, Middlesex County, Massachusetts. The proposed segments include a 700 foot west section and a 650 foot east section of U.S. 20 south of its present alignment and the 1,250 foot south section of relocated route 85 west of the present route. These segments will complete the relocation of these roadways as four-lane uncontrolled access arterials. Two build alternatives are being considered in addition to a non-build alternative (FHWA-MASS-EIS-78-02-F). Comments made by: EPA, DOI, HUD, USDA, State and local agencies. (EIS Order No. 800119.)

John C. Calhoun Expressway Extension, Richmond County, Ga., February 20: Proposed is the extension of the John C. Calhoun Expressway beginning at 15th Street to Greene Street in the city of Augusta, Richmond County, Georgia. The facility would be extended approximately 0.8 mile and would have four lanes. The alternatives consider: (1) A four-lane facility from 15th Street to Telfair Street, (3) Postponement, and (4) No build (FHWA-GA-EIS-75-10-F). Comments made by: HEW, DOI, EPA, DOC, USDA, State and local agencies. (EIS Order No. 800116.)

Final

29th Avenue—Alder St. Section, Lane County, Oreg., February 19: Proposed is the improvement of the intersection of Hilyard Street, 20th Avenue, and Amazon Parkway in the city of Eugene, Lane County, Oregon. The project will include: (1) Widening of portions of Hilyard Street, Amazon Parkway, and 30th Avenue, and the bridge over the Amazon Creek Channel, (2) Reconstruction of intersections and installing new traffic signals; (3) Installing an additional culvert under Hilyard; (4) Constructing various bicycle and pedestrian facilities; and (5) Vacating a portion of 29th Avenue. The combined length of roadway to be widened is approximately 4,800 feet (FHWA-OR-EIS-74-06F). Comments made by: DOT, COE, DOC, USDA, DOI, State and local agencies, groups and individuals. (EIS Order No. 800115.)

Draft

San Mateo Blvd., Gibson Blvd. to Zuni Blvd., Bernalillo County, N. Mex., February 22: Proposed is the improvement of San Mateo Boulevard in the city of Albuquerque, Bernalillo County, New Mexico. The improvement would begin at Gibson Boulevard and terminate at Zuni Boulevard. The facility would be reconstructed as either a 4 or 6 lane roadway for a distance of one mile. The alternatives consider: (1) Do nothing, (2) Postponement of construction, (3) Proceed with construction, and (4) Mass transit (FHWA-NM-EIS-79-01-D). (EIS Order No. 800127.)

EIS's Filed During the Week of February 18 Through 22, 1980

[Statement Title Index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Alabama	Several	Supple	Zachary-Fort Lauderdale Pipeline (DS-1)	800125	Feb. 21, 1980	FERC
Alaska		Final	Cordova Small Boat Harbor Expansion	800121	Feb. 21, 1980	COE
California	Several	Draft	California Desert Conservation Area	800126	Feb. 21, 1980	DOI
Colorado	Several	Final	CO2 Pipeline and Related Facilities, Right-of-Way	800117	Feb. 20, 1980	DOI
Florida	Several	Supple	Zachary-Fort Lauderdale Pipeline (DS-1)	800125	Feb. 21, 1980	FERC
Georgia	Richmond	Final	John C. Calhoun Expressway Extension	800116	Feb. 20, 1980	DOT
Illinois	Du Page	Draft	Woodlake Trails, Village of Hanover Park	800124	Feb. 21, 1980	HUD
Louisiana	Several	Supple	Zachary-Fort Lauderdale Pipeline (DS-1)	800125	Feb. 21, 1980	FERC
Massachusetts	Middlesex	Draft	U.S. 20 and MA-85, Marlborough	800119	Feb. 21, 1980	DOT
Michigan	Presque Isle	Final	Proposed is a Shore Damage Mitigation Program, FRO.	800120	Feb. 21, 1980	COE
Minnesota	Carver	Supple	Jonathan New Community, Chaska	800128	Feb. 22, 1980	HUD
Mississippi	Lowndes	Draft	Golden Triangle RR Company	800129	Feb. 22, 1980	ICC
	Several	Supple	Zachary-Fort Lauderdale Pipeline (DS-1)	800125	Feb. 21, 1980	FERC
New Mexico	Bernalillo	Draft	San Mateo Blvd., Gibson Blvd. to Zuni Blvd	800127	Feb. 22, 1980	DOT
	Several	Final	CO2 Pipeline and Related Facilities, Right-of-Way	800117	Feb. 20, 1980	DOI
New York	Franklin	Draft	Hogansburg Agricultural Land Drainage	800123	Feb. 21, 1980	USDA
	St. Lawrence	Draft	Hogansburg Agricultural Land Drainage	800123	Feb. 21, 1980	USDA
North Carolina	Guilford	Final	Randleman Lake, Deep River	800118	Feb. 21, 1980	COE
	Randolph	Final	Randleman Lake, Deep River	800118	Feb. 21, 1980	COE

EIS's Filed During the Week of February 18 Through 22, 1980 —Continued

[Statement Title Index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No
Oregon	Jackson	Supple	Rouge River Basin, Elk Creek Lake (DS-1)	800122	Feb. 21, 1980	COE
	Lane	Final	29th Avenue—Alder St. Section	800115	Feb. 19, 1980	DOT
Texas	Several	Final	CO2 Pipeline and Related Facilities, Right-of-Way	800117	Feb. 20, 1980	DOI
Regulatory		Final	Solid Waste Disposal Facilities, Classification	800114	Feb. 19, 1980	EPA

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.	Greys-Salt River Planning Unit, Bridger-Teton NF.	Final 91285	Jan. 8, 1980	Extension	Feb. 29, 1980.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
DEPARTMENT OF THE NAVY				
Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 679-3689.	Atlantic Fleet Weapons Training Facility, Vieques.	Draft 800048	Feb. 15, 1980	Extension was published with wrong accession number and FEDERAL REGISTER date.
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington D.C. 20240, (202) 343-3891.	Atlantic and Gulf Coasts of the United States, Protecting Barrier Islands.	Draft 800036	Feb. 15, 1980	Published as Department of Agriculture, should have read Department of Interior.

[FR Doc. 80-6602 Filed 2-29-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1426-4; OPTS-59005]

1,2-Disubstituted 4,5-Dimethoxybenzene; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a

chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 6, 1980. Persons should submit written comments on the application no later than March 18, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-59005," and should be submitted in triplicate, if possible, to the: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Test Marketing Exemption Application No. 5AHQ-0180-0121.

Close of Application Review Period. March 6, 1980.

Applicant's Identity. E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898.

Chemical Identity. Claimed confidential.

Proposed Generic Name. 1,2-Disubstituted 4,5-dimethoxybenzene.

Use Information. Photographic products.

Data. The following data and information were submitted by the company in support of the test marketing exemption application request: An Ames test for mutagenicity, primary skin irritation and sensitization tests on guinea pigs, eye and skin irritation tests on rabbits, and a rat oral lethal (LD_{50}) test.

The chemical is classified as non-hazardous based on Dept. of Transportation criteria and will be shipped by truck and railcar. Maximum amount to be transported by truck or railcar: 200 pounds (shipped in drums).

Physical and Chemical Properties:

Melting point: 84-85°C.

Specifications: Minimum purity of 96 percent.

Description: Pale yellow solid.

Reactivity: Stable under ambient conditions.

Production. The substance will be supplied to a total of 29 customers during the second, third, and fourth quarters of 1980 for test marketing. Information concerning production volume during the test marketing phase was claimed confidential.

All comments submitted and other nonconfidential information in the public record are available for public inspection from 9 a.m. to 4 p.m., Monday through Friday (excluding holidays), in Rm. 447, East Tower, at the address above.

Dated: February 22, 1980.

John DeKany,

Deputy Assistant Administrator, Chemical Control.

[FR Doc. 80-6557 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1426-7]

General Motors Corp., Kettering, Ohio; Final Determination

In the matter of the proceedings under Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), General Motors Corporation Delco Products Division, (Delco) Kettering, Ohio.

On December 6, 1978, Delco submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a 150 million BTU per hour, multi-fuel fired spreader stoke boiler. The application was submitted pursuant to the regulation for PSD.

On July 23, 1979, Delco was notified that its application was complete and preliminary approval was granted.

On September 13, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to Delco. No

comments or request for a public hearing were received.

After review and analysis of all materials submitted by Delco, the Company was notified on December 28, 1979, that U.S. EPA had determined that the proposed new construction in Kettering, Ohio would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Delco of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 207(b)(1) of the Act and therefore a petition for review may filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 3087(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–2090.

John McGuire,

Regional Administrator, Region V.

February 6, 1980.

[Approval to Construct; EPA–5–A–80–12]

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Delco Products Division of General Motors Corporation (Delco) plans to construct a new 150 million BTU per hour, multi-fuel fired spreader stoker boiler at its plant at 2000 Forrer Boulevard in Kettering, Ohio.

2. The Delco plant is located in an attainment area for total suspended particulate (TSP) and nitrogen oxides (NO_x) and nonattainment for sulfur dioxide (SO_2) and photochemical oxidants (O_x). Montgomery County is a Class II area as determined pursuant to Section 162 of the Act.

3. The new boiler was determined to be subject to partial PSD review for TSP and full PSD review for NO_x.

4. Delco submitted a PSD application to the U.S. Environmental Protection Agency (U.S. EPA) on December 6, 1978. After receipt of additional information, the application was determined to be complete and preliminary approval was issued on July 23, 1979.

5. On September 13, 1979, public notice appeared in the *Dayton Journal Herald* and the *Dayton News*. No public comments were received and no public hearing was requested.

6. After review of all the materials submitted by Delco, U.S. EPA has found that emissions from the multi-fuel fired spreader stoker boiler will be controlled by the application of the best available control technology.

7. The air quality review has shown that the proposed plant's impact will not significantly deteriorate the ambient air quality at the proposed site.

Conditions for Approval

8. Stack emissions of particulate matter shall not exceed 0.06 pounds per million BTU actual heat input.

Condition 8 is required in order to ensure that Delco's multi-fuel fired boiler will be constructed and operated in accordance with the description presented in the application for approval to construct.

9. Stack emissions of NO_x shall not exceed 0.6 pounds per million BTU actual heat input.

Condition 9 represents the application of the best available control technology as required by Section 165 of the Act.

10. Any change in Delco's proposed new boiler might alter U.S. EPA's conclusion and therefore, any change must receive the prior written authorization of U.S. EPA.

Approval

11. Approval to construct the two new boilers is hereby granted to the General Motors Corporation, Delco Products Division, subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in the application must receive the prior written authorization of U.S. EPA.

12. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78–1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect approvals issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

13. This approval to construct does not relieve Delco of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

14. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

15. A copy of this approval has been forwarded to the Kettering and Moraine Branch Library, 3496 Far Hills Avenue, Kettering, Ohio 45429.

Dated: December 28, 1979.

[FR Doc. 80–6564 Filed 2–29–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1426–3; OPTS–59008]

Monosubstituted 4,5-Dimethoxy Benzyl Chloride; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 6, 1980. Persons should submit written comments on the application no later than March 18, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS–59008", and should be submitted in triplicate, if possible, to the: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS–793), Office of Pesticides and Toxic Substances,

Environmental Protection Agency, Washington, D.C. 20460, (202–426–3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. the notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Test Marketing Exemption Application No. 5AHQ–0180–0124.

Close of Application Review Period. March 6, 1980.

Applicant's Identity. E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898.

Chemical Identity. Claimed confidential.

Proposed Generic Name. Monosubstituted 4,5-dimethoxy benzyl chloride.

Use Information. Chemical intermediate.

Data. The following data and information were submitted by the company in support of the test marketing exemption application request: an Ames test for mutagenicity, primary skin irritation and sensitization tests on guinea pigs, eye and skin irritation tests on rabbits, and a rat oral lethal dose (LD_{50}) test, physical and chemical properties:

Melting point: 79–81°C.

Specifications: Minimum purity of 80 percent.

Description: Yellow-tan solid.

Reactivity: Stable under ambient conditions. Unstable at temperature above 80°C.

Production. The substance will be supplied to a total of 29 customers during the second, third, and fourth quarters of 1980 for test marketing. Information concerning production volume during the test marketing phase was claimed confidential.

All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Rm. 447, East Tower, at the address above.

Dated: February 22, 1980.

John DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-658 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS–59007 FRL 1426–1]

Monosubstituted 4,5-Dimethoxy Phenyl Ethanol; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency. (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 6, 1980. Persons should submit written comments on the application no later than March 18, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS–59007", and should be submitted in triplicate, if possible, to the: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacaturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202–426–3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new"

chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health of the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Test Marketing Exemption Application No. 5AHQ-0180-0123.

Close of Application Review Period. March 6, 1980.

Applicant's Identify. E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898.

Chemical Identity. Claimed confidential.

Proposed Generic Name. Monosubstituted 4,5-dimethoxy phenyl ethanol.

Use Information. Chemical intermediate.

Data. The following data and information were submitted by the company in support of the test marketing exemption application request: an Ames test for mutagenicity, primary skin irritation and sensitization tests on guinea pigs, eye and skin irritation tests on rabbits and an oral lethal dose (LD_{50}) test. Physical and Chemical Properties:

Melting point: 124-125—C.
Specifications: Minimum purity of 99 percent.
Description: Yellow solid.
Reactivity: Stable under ambient conditions.

Production. The substance will be supplied to a total of 29 customers during the second, third, and fourth quarters of 1980 for test marketing. Information concerning production volume during the test marketing phase was claimed confidential.

All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Rm. 447, East Tower, at the address above.

Dated: February 22, 1980.

John DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-6560 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1425-7]

Request for Public Comment on the Annual Review and Report on Environmental Protection and Energy Conservation Required by the Federal Nonnuclear Energy Research and Development Act (Pub. L. 93-577), Section 11

AGENCY: Environmental Protection Agency.

ACTION: Public Comment on final report.

SUMMARY: The Environmental Protection Agency (EPA) announces the release of the 1979 Section 11 Report to the President and the Congress under the Federal Nonnuclear Energy Research Development Act (Pub. L. 93-577).

Written comments are requested on the Report and EPA's continuing analysis of the "adequacy of attention to energy conservation methods and environmental consequences of the application of energy technologies." In 1980, EPA plans to focus the Section 11 review on energy conservation and renewable energy resources.

DATES: Comments should be received by April 15, 1980.

ADDRESSES: Copies of the report can be obtained from and comments should be addressed to: Section 11 Coordinator, EPA Office of Environmental Engineering and Technology (RD-681), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gregory Ondich or Paul Schwengels at the above address or by phone (202) 426-9434.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Federal Nonuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), the EPA is now responsible for an annual review of "the adequacy of attention to energy conservation methods and environmental protection * * * and the environmental consequences of the application of energy technologies * * * within the Federal Nonnuclear Energy Research and Development Program * * *"

The 1979 Section 11 Report is based on analysis conducted by EPA and comments obtained at four regional workshops and three days of national hearings held in July and October 1979. Nearly four hundred people representing a wide range of affilations, including public interest and environmental groups, universities, State and local governments, labor and industry participated. More than eighty interviews with DOE personnel in Washington, D.C., the National Laboratories, the Energy Research

Centers, the Regional and Operations Offices were conducted. Further, nearly twenty DOE orders, Internal Management Directives, Secretary/ Assistant Secretary level memoranda, studies and reports were examined throughout the Section 11 review.

Since the Department of Energy (DOE) has the largest share of Federal nonnuclear energy research, development and demonstration (RD&D) programs, the 1979 Section 11 review focused on how DOE addresses concerns for environmental protection and energy conservation.

Because past Section 11 reviews showed that the public is deeply divided on how federal research resources should be allocated and has little knowledge of how energy research, with its associated conservation and environmental concerns is planned and managed, the 1979 evaluation examined only management processes and not how much money is allocated to different technologies.

The 1979 Section 11 Report outlined two major areas for improving attention to environmental and energy conservation concerns by suggesting changes in both the formal DOE planning and management system with its associated environmental documentation and in the procedures for seeking resolution of these concerns.

The topics addressed in the Report's Findings and Recommendations included the purpose of the RD&D program; the way RD&D priorities are set; the project review process; criteria for evaluating projects; procedures for resolving environmental issues concerning Federal, regional and local levels; and public participation in planning and decision-making.

DOE has taken several recent actions relevant to their planning and management system and the procedures for implementing it which may affect the findings and recommendations in the Report. Time was not available to revise the report in response to these changes.

The 1980 Section 11 Program will address the adequacy of attention to energy conservation and renewable energy technology in federal energy research programs. Several participants in the 1979 program expressed the opinion that a bias exists in federal energy research programs toward centralized, high-technology projects. One aspect of the 1980 program will be an investigation of this claim and an evaluation of the possible impact on development of energy conservation and renewable energy technologies.

Written public comments concerning the substance of the 1979 Section 11 report or the proposed 1980 activities are requested.

Dated: February 26, 1980.

Steven R. Reznek,

Deputy Assistant Administrator for Environmental Engineering and Technology.

[FR Doc. 80-6585 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-50453; FRL 1426-5]

Rohm & Haas Co.; Experimental Use Permit for Oxyfluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued an experimental use permit to Rohm and Haas Co. to use the herbicide oxyfluorfen on fruit trees to evaluate control of weeds.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Room E-359 (PM-25), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460, (202-755-2196)

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Philadelphia, PA 19105, has been issued experimental use permit No. 707-EUP-85. This permit allows the use of 456 pounds of the herbicide oxyfluorfen on almonds, apricots, grapes, nectarines, peaches, and plums to evaluate control of weeds.

A total of 228 acres are involved; the program is authorized only in the State of California. This experimental use permit is effective from January 9, 1980 to January 9, 1981. Temporary tolerances for residues of the active ingredient in or on almonds, apricots, grapes, nectarines, peaches, plums and prunes have been established.

Persons wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street S.W., Washington, DC 20460. Inquiries regarding this permit should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136)).

Dated: February 22, 1980.

Herbert S. Harrison,

Acting Director Registration Division, Office of Pesticide Programs.

[FR Doc. 80-6588 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1426-2; OPTS-590011]

Trisubstituted Acetophenone; Premature Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 6, 1980. Persons should submit written comments on the application no later than March 18, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-590011", and should be submitted in triplicate, if possible, to the: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled

by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on may 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemcial substances that are subject to testing rules under section 4. Secion 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the testing marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Test Marketing Exemption Application No. 5AHQ-0180-0127.

Close of Application Review Period. March 6, 1980.

Applicant's Identify. E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898.

Chemical Identity. Claimed confidential.

Proposed Generic Name. Trisubstituted Acetophenone.

Use information. Chemical intermediate.

Data. The following data and information were submitted by the company in support of the test marketing exemption application request: an Ames test for mutagenicity, primary skin irritation and sensitization tests on guinea pigs, eye and skin irritation tests on rabbits, and a rat oral lethal does (LD_{50}) test.

Physical and Chemical Properties:

Melting point: 125–129° C.
Specifications: Minimum purity of 95 percent.
Description: Yellow solid.
Reactivity: Stable under ambient conditions.

Production. The substance will be supplied to a total of 29 customers during the second, third, and fourth quarters of 1980 for test marketing. Information concerning production volumes during the test marketing phase was claimed confidential.

All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Rm. 447, East Tower, at the address above.

Dated: February 22, 1980.

John DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-6559 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1426-6; OPP-50456]

Uniroyal, Inc., Herbicide Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued an experimental use permit to Uniroyal, Inc. for use of the herbicide 2[[1-(2,5-dimethylphenyl)ethyl] sulfonyl] pyridine on cotton, peanuts, potatoes (white Irish), soybeans, sugar beets, and sunflowers to evaluate control of weeds.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager (PM-25), Room E-359, (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, (202-755-2196).

SUPPLEMENTARY INFORMATION: Uniroyal, Inc., Bethany, CT 06525, has been issued experimental use permit No. 400-EUP-59. This permit allows the use of 682 pounds of the herbicide 2[[1-(2,4-dimethylphenyl)ethyl] sulfonyl] pyridine on cotton, peanuts, potatoes (white Irish), soybeans, sugar beets, and sunflowers to evaluate control of weeds.

A total of 455 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin. This experimental use permit is effective from March 1, 1980 to March 1, 1981. This permit is being issued with the limitation that all treated crops be destroyed or used for research purposes only.

Persons wishing to review the experimental use permit are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, DC 20460. Inquiries regarding this permit should be directed to the contact person given above. It is suggested that interested persons call before visiting the EPA Headquarters Office so that the appropriate file may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136)).

Dated: February 22, 1980.

Herbert S. Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-6562 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1425-8; OPTS-590012]

Unsaturated Polyester Resin; premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purspose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA issue a notice of receipt of any such application for publication in the Federal Register. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by March 12, 1980. Persons should submit written comments on the application no later than March 18, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-590012", and should be submitted in triplicate, if possible, to the: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Wilson, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of FSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the Federal Register of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Test Marketing Exemption Application No. TM 80-11.

Close of Application Review Period. March 12, 1980.

Applicant's Identify. Claimed confidential.

Chemical Identity. Polymer of fumaric acid, isophthalic acid, adipic acid, neopentyl glycol, diethylene glycol, and propylene glycol.

Proposed Generic Name. Unsaturated polyester resin.

Specific Use Information. The polymer is used as a component of cured, cross-linked polyester plastic to form articles for industrial use.

Data. The following data and information were submitted by the company in support of the test marketing exemption application request. The proposed polyester resin is a soft plastic solid at ambient temperatures. It is virtually insoluble in water and has negligible vapor pressure. Physical and Chemical Properties:

Acid Value. 16-22.
Viscosity at 66 percent NV styrene. 600-800 centipoise.
Initial Boiling Point (for 35-40 percent of components). 293°F. (145°C) at 760 mm of mercury.
Vapor Pressure (for 35-40 percent of components). 5 mm of mercury at 68°F (20°C).
Vapor Density. Heavier than air.
Specific Gravity. Greater than water.
Percent Volatiles. 35-40 percent.
Evaporation Rate. Slower than ether.
Flash Point (closed cup). 73-100°F (23-38°C).
Lower Explosive Limit (lowest value of component). 1.1 percent.

The polymer will be distributed to not more than three customers for processing as a cured, cross-linked polyester plastic to form articles intended for industrial uses. About 104,000-112,000 pounds of the polyester resin mixed with 30-35 percent styrene cross-linking agent will be distributed over a period of 180 days after this exemption is granted. These quantities are required to ascertain that successive 40,000-pound batches of the mixed polyester resin can be manufactured, shipped long distances by tankcar or tankwagon, and stored during extended production runs of the articles being produced. Any unusable polyester resin will be disposed of by incineration or polymerized and used in landfill.

Health, Safety, and Environmental Studies. The company did not submit any test data concerning health, safety, or environmental effects. The company

claimed that there are no test data in its possession or control and that data concerning health, safety, and environmental effects are not known or reasonably ascertainable.

All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Rm. 447, East Tower, at the address above.

Dated: February 22, 1980.

John DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-6561 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A Job Segregation and Wage Discrimination Under Title VII and the Equal Pay Act; Public Information Hearing; Rescheduling of Public Information Hearing

This is to announce that the public hearing on job segregation and wage discrimination originally scheduled to be held on February 28 and 29, 1980 (announced in the Federal Register of November 2, 1979, 44 FR 63485, January 17, 1980, 45 FR 3383, and February 21, 1980, 45 FR 11659), has been rescheduled to be held on April 28, 29 and possibly continuing to April 30 beginning at 9:00 a.m. at the following address: General Services Administration, Central Auditorium, 18th and F Streets, N.W., Washington, D.C. 20405.

Persons wishing to testify before the Commission should submit a request no later than March 21, 1980 to the Executive Secretariat, at the address shown below. The request should include a written summary of the testimony to be offered.

Because of time limitations, not all interested persons may be allowed to testify. The Commission will inform persons who have requested an opportunity to testify whether they are scheduled to testify not later than one week prior to the scheduled hearing date. Individuals not able to testify because of time limitations will be given to opportunity to submit a written statement. Individuals wishing to provide information to the Commission but not wishing to testify are encouraged to submit a written statement to the Commission. Such statement must be submitted no later than March 31, 1980 to the Executive Secretariat at the address shown below.

Any information provided the Commission, either by oral testimony or in writing, shall be used only for informational purposes by the Commission.

All statements received by the Commission in connection with the public hearing may be reviewed by members of the public in the Equal Employment Opportunity Commission Reading Room between 9:30 a.m. and 4:30 p.m. Monday through Friday, Library, Room 2303, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

The hearing will be open to the public. For further information, contact: Karen Danart, Deputy Director, Office of Policy Implementation, Room 4002, 2401 E Street, N.W., Washington, D.C. 20506, telephone (202) 634-7060 between the hours of 9:00 a.m. and 5:00 p.m. eastern standard time.

Requests to testify and written statements should be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

All correspondence submitted in connection with this announcement should be marked "Wage Discrimination Hearing" at the lower left hand corner of the envelope. "Request to Testify" should also be indicated, where appropriate.

Signed this 28th day of February.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-6656 Filed 2-29-80; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services (RTCM); Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 74
"Digital Selective Calling"
Notice of 11th Meeting
Tuesday, March 18, 1980—9:30 a.m.
Wednesday, March 19, 1980—8:00 a.m.
(Full-day meetings)
Conference Room 7200/7202, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

Agenda

March 18, 1980

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

March 19, 1980

1. Administrative Matters.
2. Working Group Reports.

CDR J. G. Williams, Chairman, SC-74, U.S. Coast Guard Headquarters, Washington, D.C., Phone: (202) 426-1345.

Executive Committee Meeting
Notice of March Meting
Thursday, March 20, 1980—9:30 a.m.
Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street, S.W., at D Street, Washington, D.C.

Agenda

1. Administrative Matters.
2. Report of Nominating Committee.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-6535 Filed 2-29-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1980-7]

Opinion and Regulation Index Supplements

A new supplement to the Index to Advisory Opinions and Opinions of Counsel (discontinued in April, 1976) issued by the Federal Election Commission is now available for purchase in the Public Records Division of the Commission. This supplement includes a revised subject and U.S. Code Section Index covering opinions issued from the establishment of the Federal Election Commission in April, 1975 through February, 1980, as well as a supplement to the Regulation Index covering 1977 through 1980 opinions.

Purchase price of the new index is $5.70 to cover duplication costs, payable in advance. Checks should be made payable to: *United States Treasurer.* Person to contact: Mr. Craig Brightup, Public Records Division, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Telephone: (202) 523-4181.

Dated: February 27, 1980.

Robert O. Tiernan,

Chairman for the Federal Election Commission.

[FR Doc. 80-6601 Filed 2-29-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

American President Lines, Ltd./ Medtainer Gulf Line SAL Connecting Carrier Agreement; Notice of Cancellation

Filing Party: W. R. Purnell, Director of Pricing, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Agreement No. 10341.

Summary: On February 7, 1980, the Commission received notice of the termination of participation of American President Lines, Ltd., in Agreement No. 10341. The agreement will be cancelled on April 4, 1980, the date the agreement ceases to be a bilateral arrangement.

Dated: February 27, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6578 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-10]

Borden World Trade, Inc. v. Lykes Bros. Steamship Co. Inc.; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratary order has been filed by Borden World Trade, Inc. asking the Commission to terminate a controversy between it and Lykes Bros. Steamship Co. The dispute involves the question of interpretation of the applicable tariff and freight charges assessed on a shipment of Borden via Lykes on December 3, 1977. Borden seeks an order of the Commission declaring that all applicable rates and charges have been paid and nothing further is owed by it to Lykes.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101 or may inspect the petition at the Commission's Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before March 28, 1980. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6539 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

Manual of Orders; Specific Authorities Delegated to the Managing Director

Commission Order 1 (Revised) was amended by amendment No. 13 on January 3, 1980, in order to delegate the authority to waive the filing requirements of 46 CFR 502.67(a)(2) for non-vessel operating common carriers in the Domestic Offshore Trades. The text of that amendment is as follows:

"7.25 Authority to waive the filing requirements of 46 CFR 502.67(a)(2) for non-vessel operating carriers."

Richard J. Daschback,

Chairman.

[FR Doc. 80-6538 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-92; FMC-F Nos. 164, 165, 166 and 167]

Matson Navigation Co. (Matson)— Proposed 6.66 Percent Bunker Surcharge Increase in Tariffs; Order

The Order of Investigation served in this proceeding on October 15, 1979, directed, *inter alia*, that the procedural schedule in the proceeding be held in abeyance pending final decisions in Docket Nos. 79-55 and 79-84. The Commission contemplated that the resolution of the issues in those dockets, which are substantially identical to the issues presented in this proceeding, would allow for an expedited disposition of this investigation without duplicative litigation. However, in light of developments in Docket Nos. 79-55 and 79-84 and the procedural schedule ordered by the Presiding Officer on January 31, 1980, it is clear that the Commission must assume direct control of this proceeding so that a decision may be issued within the 180-day statutory limit imposed by section 3 of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 845). Accordingly, in order to meet the statutory deadline, the Commission will require the record in this proceeding to be certified to it for decision. Further, the procedural schedule ordered by Presiding Officer will be amended consistent with the Commission objective of disposing of this matter by March 28, 1979. One round of briefs will be permitted, these to be filed with the Commission on or before the close of business Tuesday, March 11, 1980.

The Commission finds that due and timely execution of its functions imperatively and unavoidably require the expedited procedure established here. These extraordinary measures are necessitated by the number and frequency of bunker surcharge filings by Matson Navigation Company in the U.S. mainland/Hawaii trade.

Therefore, *it is ordered*, That upon filing of rebuttal testimony the record of this proceeding be certified to the Commission for decision, and,

It is further ordered, That simultaneous briefs be filed in this proceeding by all parties on or before Tuesday, March 11, 1980.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6579 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *20* days after the date of the Federal Register in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or

between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 6190–33.

Filing Party: Nathan J. Bayer, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 6190–33 amends the basic provisions of the United States Atlantic and Gulf/Venezuela and Netherlands Antilles Conference by establishing a special admission fee in the amount of $2,500 for any party to FMC Agreements No. 6190–A and No. 7777 which shall become a party to Agreement 6190 within twelve months of the date of cancellation of Agreements No. 6190–A and No. 7777.

Agreement No. 10346–2.

Filing Party: Jorge Luis Wachter, Executive Administrator, Conferencia Interamericana de Fletes—Seccion "B", Lavalle 381—8° Piso (1047), Buenos Aires, Argentina.

Summary: Agreement No. 10346–2 amends the Argentina/U.S. Gulf Pooling Agreement which provides for a cargo revenue pooling and sailing agreement. The purpose of the agreement is to amend Article 2(A) and the signature page to reflect the withdrawal of Oivind Lorentzen, Ltd. (Nopal) as a participant in the agreement.

By Order of the Federal Maritime Commission.

Dated: February 27, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6576 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *10* days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10382.

Filing Party: Jorge Luis Wachter, Executive Administrator, Conferencia Interamericana de Fletes—Seccion "B", Lavalle 381—8° Piso (1047), Buenos Aires, Argentina.

Summary: Agreement No. 10382, by and among Empresa Lineas Maritimas Argentinas S. A., A. Bottacchi S. A. de Navegacion C. F. I. I., Delta Steamship Lines, Inc., Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional, Montemar S. A. Comercial y Maritima and Reefer Express Lines Pty., Ltd., is a cargo revenue pooling and sailing agreement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to the United States Gulf of Mexico ports, from Brownsville, Texas to Key West Florida, both inclusive. The agreement sets forth each participant's pool share and required minimum sailings in the applicable trade. The agreement provides for the reservation of pool shares to be allocated to Transportacion Maritime Mexicana S. A. and Navimex S. A. de C. V. should they agree as to their respective shares of a 6.2 percent quota. The agreement will be effective upon approval by the respective government maritime authorities and shall remain in effect through December 31, 1983. Agreement No. 10382 is intended to supersede Agreement No. 10346.

By Order of the Federal Maritime Commission.

Dated: February 27, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6577 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

Petition of Refrigerated Express Lines (A/Asia) Pty., Ltd.; Order

On November 6, 1979, Refrigerated Express Lines (A/Asia) Pty., Ltd. (REL) filed a petition requesting that the Commission take action pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876) to adjust or meet conditions allegedly unfavorable to shipping in the foreign trade. REL based its petition on the Australian Meat and Livestock Corporation's (AMLC) failure to redesignate REL as a carrier authorized to engage in the transportation of refrigerated meat from Australia to United States Atlantic and Gulf Coast ports.

Notice of filing of the petition was published in the Federal Register on December 14, 1979. Comments were submitted by the Tampa Port Authority, the Port of Wilmington, Delaware, and Senator Joseph R. Biden, Jr. supporting REL's petition; and by six others in opposition—AMLC, the Council of American Flag Ship Operators, Farrell Lines, Columbus Lines, Associated Container Transportation (Australia) Ltd. and Australian National Line, and Aflantraffik Express Service. REL replied to these comments on January 16, 1980.

AMLC is a statutory corporation created as a result of the Australian Meat and Livestock Corporation Act of 1977. It enjoys wide powers over shipping arrangements for the transportation of meat to the United States.[1] It designates those lines with which Australian exporter/shippers may deal and establishes the maximum freight rates which designated lines may charge.

REL operates breakbulk refrigerated vessels in this trade, while its competitors—Columbus Lines, Farrell Lines, Pacific Container Express Line, and Atlantraffik/Trader Navigation Co., Ltd.—operate cellular containerships. REL contends that, from 1977 to mid-1979, it transported 12% of the northbound meat traffic while performing only 9% of the sailings and that its overall vessel utilization exceeded 93%.

The extent of REL's participation is largely the result of efforts to "rationalize" shipping services undertaken by AMLC and its predecessor, the Australian Meat Board, beginning in mid-1976. As a result of these efforts several agreements between REL and its four competitors were filed with the Commission and approved pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). Under these agreements only REL would provide the meat trade with breakbulk services, in return for a maximum, 15% assured share of the traffic. None of REL's competitors was awarded similar assured shares. Further, some of the costs of serving remote northwestern Western Australia ports were defrayed by a subsidy REL received from levies assessed its competitors. Subsequently, when containership facilities became

[1] Meat is an extremely important export commodity to the Australian economy. During 1977, meat comprised at least 70% of the tonnage of all cargoes moving to U.S. Atlantic and Gulf ports from Australia.

available to serve those ports, the Meat Board supplanted REL with Atlantraffik/Trader and directed REL to confine its breakbulk activities to the eastern coast of Australia. REL then concentrated upon serving ports in Queensland, north of Brisbane, not directly served by its competitors. The major discharge ports for REL in the United States were Tampa, Florida, and Wilmington, Delaware, neither of which was directly served by REL's competitors.

REL's basic position is that AMLC's failure to redesignate it as a carrier of Australian meat results in a condition unfavorable to shipping in the U.S. foreign trade. It claims that it will lose $10.5 million in revenues in 1980 as a result. It further maintains that, if it is excluded from the trade, service will decline at the range of smaller ports which it served and freight rates will likely increase. REL also contends that because its breakbulk vessels discharge their cargo directly into specialized refrigerated warehouses, it provides a superior service to that provider by container vessels. Finally, in an argument raised for the first time in its reply to comments, REL asserts that AMLC's action constitutes a *per se* condition unfavorable to shipping in the U.S. foreign trade, as set forth in § 506.3(a) of General Order 33. 46 CFR 506.3(a).

The ports of Tampa and Wilmington generally support REL's petition. They both mention recent investments in dockside cold storage facilities to handle REL's shipments and suggest that REL's departure from the Australian meat trade will significantly affect their respective economies.

The parties opposing REL's petition offer the following arguments:

1. Section 19(1) of the Merchant Marine Act is intended to benefit solely the U.S. Merchant Marine;

2. Because REL has brought action against AMLC in federal court in Australia, (a) it has elected to pursue that remedy; and (b) it is consequently premature to challenge AMLC's action before the Commission;

3. The Commission should not substitute its judgment for AMLC's because AMLC is presumed to have considered all facets of the meat industry when deciding to designate only container ships in the meat trade;

4. REL's requested relief would harm U.S. importers and also U.S. flag carriers; and

5. REL has not established the existence of conditions unfavorable to shipping in the U.S. foreign trades, especially since it has not shown that inadequate service to American exporters or importers will result from AMLC's decision.

The Commission has consistently held that the protections afforded shipping in the U.S. foreign trades by section 19 of the Merchant Marine Act are not necessarily limited solely to U.S. flag shipping. *Petition of ACE Lines, Ltd.*, 19 S.R.R. 481, 482 (1979); *see also*, 39 FR 38647 (1974). Nothing in the present case compels a different conclusion.

REL's action in the Australian courts does not limit the Commission's ability to dispose of the instant petition. There, REL is contending that AMLC's decision and the actions of several of its competitors are contrary to Australian law. Regardless of the outcome of that case, however, AMLC's decision may have created a condition unfavorable to shipping in the U.S. foreign trade within the meaning of section 19. The Commission has a statutory obligation to consider REL's petition under United States law. Moreover, in assessing REL's claim the Commission need not give undue preference to AMLC because it is a quasi-governmental body or because it presumably acts in the best interests of the entire Australian meat export industry. As the Commission has stated on a prior occasion, "[c]onsideration of rules, under section 19, is not the place to apply the 'Act of State' doctrine." *Petition of ACE Lines, Ltd.*, 19 S.R.R. at 482.

The primary issue before the Commission is whether AMLC's action in authorizing only container operators to carry meat exported from Australia to the United States has created a condition unfavorable to shipping within the meaning of section 19. REL claims that as a result of this action it is effectively excluded from the Australia/United States meat trade. It further alleges that its exclusion creates a *per se* condition unfavorable to shipping based on section 506.3(a) of General Order 33, which states in part:

> For the purposes of this part, conditions created by foreign governmental action * * * which:
> (a) * * * preclude or tend to preclude vessels in the foreign trade of the United States from competing in the trade on the same basis as any other vessel * * *
> are found unfavorable to shipping in the foreign trade of the United States.

As an initial matter, the Commission notes that even though § 506.3 of General Order 33 sets forth several types of conditions which are unfavorable to shipping, Commission action under those section 19 regulations is entirely discretionary, including actions which the Commission may take to meet apparent conditions unfavorable. *See* 40 FR 28,801 (1975); 46 CFR 506.8. Moreover, the first two categories set forth in § 506.3 merely serve as rebuttable presumptions that a condition unfavorable to shipping in the foreign trade of the United States exists. Once a petition for relief under section 19 establishes the existence of either of these conditions, the burden then rests upon parties opposed to the petition to establish acceptable transportation factors which may justify the condition. In this particular case, AMLC has met this burden. Its decision to designate only container carriers in the Australia/United States meat trade is based upon its conclusion that breakbulk carriage is no longer required and that the Australian export meat industry will be best served by modern, centralized containership operations. In reaching this decision it took into account the express preferences of both Australian exporters and United States importers that Australian meat be shipped in refrigerated containers. This course of action was recommended by the Exporter and Abattoir Consultative Group [2] and approved by the Australian Minister for Primary Industries in accordance with section 14(1)(d) of the Australian Meat and Livestock Corporation Act of 1977. The Commission concludes, therefore, that AMLC's decision not to redesignate REL was based upon sound economic and trade consideration.

Finally, in *Petition of ACE Lines, Ltd.*, a case similar to the present one, the complaining carrier also argued that it was precluded from competing on the same basis as others, but the Commission nevertheless denied its section 19 petition. In so doing, the Commission emphasized that the action of the New Zealand Wool Board (which only allowed rate agreement members to carry wool) affected only the wool trade and had "* * * not resulted in inadequate service to American exporters or importers." *Petition of ACE Lines, Ltd.*, 19 S.R.R. at 428. Nor has it been shown here that AMLC's decision will result in inadequate service to American importers.

Based on the record before the Commission, and the above discussion, REL's petition is denied.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6641 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

[2] This consultative group is comprised of representatives of the Australian Meat Exporters' Federal Council, the Australian Meatworkers' Federal Council, the Council of Australian Public Abattoir Authorities, and the Meat and Allied Trades Federation of Australia.

[Independent Ocean Freight Forwarder License No. 1381]

Rene Lopez and David Romano d.b.a. United Dispatch Services; Order of Suspension

On February 25, 1980, the Commission issued a Report and Order in Docket No. 79-61 to suspend the independent ocean freight forwarder license of Rene Lopez and David Romano D.B.A. United Dispatch Services.

Therefore, it is ordered, That Independent Ocean Freight Forwarder License No. 1381 issued to Rene Lopez and David Romano D.B.A. United Dispatch Services, be and is hereby suspended for six months, effective February 27, 1980.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1381 issued to Rene Lopez and David Romano D.B.A. United Dispatch Services, be returned to the Commission.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Rene Lopez and David Romano D.B.A. United Dispatch Services.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-6540 Filed 2-29-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to this application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater conveniences, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 21, 1980.

A. *Federal Reserve Bank of Minneapolis* (A. Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Intermountain Bancorporation, Columbia Falls, Montana (mortgage banking; Montana): to engage, through its subsidiary, Union Mortgage Company, in the following activities: the origination, buying, selling and servicing of real estate loans for its own account and for others. These activities will be conducted from an office in Columbia Falls, Montana, serving the State of Montana.

Intermountain Bancorporation, Columbia Falls, Montana (personal property and real property leasing; Montana): to engage, through its subsidiary, Union Leasing, in the following activities: acting as agent or advisor in the Leasing, account maintenance, re-lease and lease maturity sale of electronic equipment, business machines, office furnishings, bank related electronic data processing and security equipment, vehicles and real property. These activities will be conducted from an office in Columbia Falls, Montana, serving the State of Montana.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 26, 1980.

Wiliam N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-6542 Filed 2-29-80; 8:45 am]

BILLIING CODE 6210-01-M

First American Bank Corp.; Acquisition of Bank

First American Bank Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Wayne Oakland Bank, Royal Oak, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 26, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-6543 Filed 2-29-80; 8:45 am]

BILLING CODE 6210-01-M

Hubbard Bancshares, Inc.; Formation of Bank Holding Company

Hubbard Bancshares, Inc., Park Rapids, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.3 percent of the voting shares of State Bank of Park Rapids, Park Rapids, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-6544 Filed 2-29-80; 8:45 am]

BILLING CODE 6210-01-M

Straz Investment Co., Inc.; Formation of Bank Holding Company

Straz Investment Co., Inc., Kenosha, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.15 per cent or more of the voting shares of First Gulf Beach Bank and Trust Company, St. Petersburg Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-6545 Filed 2-29-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 37; Federal Procurement, Supplement 4]

Companies Not in Compliance With the Voluntary Wage and Price Standards

February 13, 1980.

To: Head of Federal agencies.

1. *Purpose.* This supplement adds additional companies to the list of companies that have been determined to be in noncompliance with the Voluntary Wage and Price Standards formulated under Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* The following companies are added to the companies listed in paragraph 4 of GSA Bulletin FPR 37, dated August 17, 1979; Supplement 1, dated September 14, 1979; Supplement 2, dated November 16, 1979; and Supplement 3, dated January 18, 1980:

Effective January 21, 1980

Boston Distributors, (a division of Cook United, Inc.), 16501 Rockside Road, Cleveland, OH 44137.

National Gypsum Company 4100 First International Building, Dallas, TX 75270

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-6498 Filed 2-29-80; 8:45 am]

BILLING CODE 6820-61-M

[D-80-1]

Delegation of Authority to the Secretary of Health, Education, and Welfare

1. *Purpose.* This delegation authorizes the Secretary of Health, Education, and Welfare to enter into a long-term lease for approximately 20,000 square feet of special purpose space (hospital-related clinical facility) in Nassau Bay, Texas.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is hereby delegated to the Secretary of Health, Education, and Welfare to lease approximately 20,000 square feet of space in Nassau Bay, Texas, for a firm term not to exceed seven years pursuant to the authority contained in section 210(h)(1) of the above-cited Act (40 U.S.C. 490(h)(1)).

b. The Secretary of Health, Education, and Welfare may redelegate this authority to any official or employee of the Department of Health, Education, and Welfare.

c. This authority shall be exercised in accordance with the applicable limitations and requirements of the above-cited Act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and policies, procedures, and controls prescribed by the General Services Administration.

4. *Expiration.* This delegation shall expire upon the completion and occupation of the 30,000-square foot addition to the Public Health Service Hospital at Nassau Bay, Texas.

Dated: February 21, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-6497 Filed 2-29-80; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, March 20-21, 1980, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland, Terrace Conference Room.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be open to the public from 8:30 a.m. to 9:00 a.m. and closed from 9:00 a.m. to 5:00 p.m. on March 20, 1980 for the review, discussion and evaluation of individual contract proposals. These proposals and the discussion could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Friday, March 21, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, Room 4A-21, Building 31, National Institutes of Health, Bethesda, Maryland, 20205, Phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Gardner C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, Phone (301) 496-1613, will furnish substantive program information.

Dated: February 26, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 6487 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-86-M

Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood

Institute, April 21, 1980, in Conference Room A, Landow Building, National Institutes of Health, 7910 Woodmont Avenue, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of programs relevant to the Cardiology area and consideration of reports from members.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496–5421, will furnish substantive program information upon request.

Dated: February 26, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-6486 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-08-M

National Institute of Dental Research Programs Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Programs Advisory Committee, on April 14, 1980, from 12:00 Noon to 5:00 p.m., in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland.

The Subcommittee on Dental Caries, National Institute of Dental Research Programs Advisory Committee, will meet on April 15, 1980, from 9:00 a.m. to 5:00 p.m., in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland.

The Subcommittee on Periodontal Diseases, National Institute of Dental Research Programs Advisory Committee, will meet on April 15, 1980, from 9:00 a.m. to 5:00 p.m., in Conference Room 8, Building 31–C, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 12:00 Noon to 5:00 p.m. on April 14, and from 9:00 a.m. to 5:00 p.m. on April 15, to discuss research progress and ongoing plans and programs of the National Caries Program and the Periodontal Diseases Program Branch. Attendance by the public will be limited to space available.

Dr. James C. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, MD 20205 (telephone 301 496–7239) and Dr. Paul F. Parakkal, Scientist Administrator, Periodontal Diseases Program Branch, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, MD 20205 (telephone 301 496–7784) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.840 National Institutes of Health)

Dated: February 26, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-6485 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-08-M

Vision Research Program Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 13 and 14, 1980, Building 31, C Wing, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on thursday, March 13, from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub.L. 92–463, the meeting will be closed to the public from 9:30 a.m. on March 13 until adjournment on March 14 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A–25, National Institutes of Health, Bethesda, Maryland 20014 (telephone: 301/496–5248) will furnish summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06 (telephone 301/496–5561) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health)

Dated: February 26, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-6484 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

Foreign Language and Area Studies Fellowships and International Studies Centers Program; Closing Date for Transmittal of Noncompeting Continuation Applications for Fiscal Year 1980

Applications are invited for noncompeting continuation projects under the Foreign Language and Area Studies Fellowships and International Studies Centers Program.

Authority for this program is contained in title VI, Section 601 of the National Defense Education Act of 1958, as amended. (20 U.S.C. 511)

This program issues awards to institutions of higher education; consortium applications are eligible but must be submitted by a member institution.

The purpose of the awards under the Fellowships Program is to assist individuals undergoing advanced training in modern foreign languages and related area studies through awards to approved institutions. The purpose of the awards under the International Studies Centers Program is to provide general assistance for programs in language and area studies and in international studies.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by April 21, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.434, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is anticipated that a total amount of $4,799,500 will be available for Fellowships in FY 1980. Of this amount, $4,558,500 will fund approximately 765 Academic year fellowships at an average unit cost of approximately $6,000. The balance, $241,000, will be available for approximately 161 summer fellowships at an average unit cost of $1,500. For purposes of this program a teacher will be regarded as a student. The tentative allocation of fellowships by world area is as follows: Africa, 92 academic year and 19 summer; East Asia, 179 academic year and 38 summer; Eastern Europe and USSR, 118 academic year and 25 summer; Latin America, 76 academic year and 16 summer; Middle East, 132 academic year and 28 summer; South Asia, 87 academic year and 18 summer; Southeast Asia, 65 academic year and 14 summer; Inner Asia, 10 academic year and 2 summer; Western Europe, 6 academic year and 1 summer.

It is anticipated that approximately $8,000,000 will be available for the Centers Program in FY 1980. It is estimated that these funds will support 77 awards to Centers, with 8 awards for centers with a primary focus on other than foreign language and area studies, such as comparative area studies or international affairs, and with 14 of the awards for undergraduate centers. The anticipated average award for centers will be about $94,500 with a range between $37,000 and $180,000.

Regional Centers should number as follows: Africa, 9; East Asia (including Japan, China and Korea), 16; Latin America, 11; Middle East (including North Africa), 11; USSR and Eastern Europe, 13; South Asia (India, Sri Lanka, Pakistan, Bangladesh and Nepal), 8 (including 1 combined South and Southeast Asia Center); Southeast Asia (Indonesia, Philippines, Thailand, Vietnam, Cambodia, Laos, Malaysia, Burma), 3 (including one combined South and Southeast Asia Center); Canada, 2; Western Europe, 2; and 1 each for Inner Asia and Pacific Islands.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by March 5, 1980. They may be obtained by writing to the International Studies Branch, U.S. Office of Education (Room 3671, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Foreign Language and Area Studies Fellowships and International Centers Studies Program (45 CFR Part 146), published in the Federal Register on May 23, 1977 and revised in today's issue of the Federal Register; and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note: The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Mr. Joseph Belmonte, Chief, Centers and Research Section, International Studies Branch, U.S. Office of Education (Room 3923, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-2356.

(20 U.S.C. 511)

Dated: February 5, 1980.

(Catalog of Federal Domestic Assistance Number 13.434; Foreign Language and Area Studies Fellowships and International Studies Centers Program)

William L. Smith,

Commissioner of Education.

[FR Doc. 80-6583 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-02-M

Law School Clinical Experience Program; Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980

Applications are invited for new projects under the Law School Clinical Experience Program.

Authority for this program is contained in Title XI, Section 1101 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1136a and b)

This program issues awards to accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand-delivered by April 30, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.584, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered

postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: (1) *Eligible Applicants.* Only accredited law schools may apply for awards.

(20 U.S.C. 1136(a))

(2) *Funding Criteria.* Applicants should base their applications on the Notice of Proposed Rulemaking for the Law School Clinical Experience Program, published in the Federal Register on February 19, 1980 (45 FR 10821–10823). The proposed regulations broadly define the types of projects the Commissioner intends to support under this program. The regulations also specify the selection criteria to be used in evaluating applications.

Available Funds: Four million dollars is available to administer the Law School Clinical Experience Program in FY 1980.

It is estimated that these funds could support up to eighty (80) projects.

The anticipated award for new projects wil be between $30,000 and $60,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by March 14, 1980. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the criteria, instructions, and forms included in the program information packages.

Applicable Regulations: The regulations applicable to this program are: (a) The Notice of Proposed Rulemaking for the Law School Clinical Experience Program published in the Federal Register on February 19, 1980 (45 FR 10821–10823).

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further Information: For further information contact Dr. Donald N. Bigelow, Chief, Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2347.

(20 U.S.C. 1136, 1136a and b)

(Catalog of Federal Domestic Assistance Number 13.584; Law School Clinical Experience Program)

Dated: February 22, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-6514 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-02-M

Metric Education Program

AGENCY: Office of Education, HEW.

ACTION: Extension of Closing Date for Submission of Applications for Fiscal Year 1980.

SUMMARY: The February 14, 1980 closing date for the submission of applications under the Metric Education Program is extended. The new closing date is April 29, 1980.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in Section 311 of Title III of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561.

(20 U.S.C. 2951–2954)

This program issues grant awards to State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), public and private nonprofit agencies or organizations (NPOs), and any combination of two or more of the above eligible applicants.

The purpose of the awards is to encourage and support projects that prepare students to use the metric system of measurement (International System of Units (SI)).

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.561, Washington, D.C. 20202.

Applications must be mailed on or before the closing date. The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, neither of the following is acceptable by the Commissioner as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand: An application that is hand delievered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th & D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Preapplications: Preapplications will not be required for fiscal year 1980 funding consideration.

Program Information: Reflective of the project design(s), each applicant shall submit an abstract based on the abstract format included in Part IV,

Program Narrative, of the application. The abstract will be developed using the pre-printed pages contained in the application package (Part I, Pages 10–13). Each proposal shall include a table of contents. The pages of the application shall be sequentially numbered throughout. Categories of typical activities that are supportable by the Program are specifically set forth in Subpart B, § 161.10 of the regulations.

All awards are new and are for a 12-month period. No funds are reserved for continuation awards.

Available Funds: An appropriation of $1,840,000 is available for the Metric Education Program in fiscal year 1980. The amount of an award is determined by the nature of the project design, the allowability of activities included in the design, and the amount of funds available to the Commissioner to support such programs. However, former Projects that have included statewide or multi-state activities have generally been funded in the range of $35,000–$40,000. Projects that have been structured around activities which were implemented under the aegis of a group of eligible agencies have been funded in the range of $50,000–$75,000. Grant awards to support projects that include metric education activities to single agencies or institutions which have not pursued activities comparable in scope to the aforementioned projects have generally been funded in the range of $25,000–$35,000. Requests for funds to support projects which are centered around the operation of mobile metric education laboratories have been in the range of $50,000–$80,000.

Higher operational costs are involved in projects whose activities (a) are statewide or multi-state in scope; (b) include or are basically designed to implement mobile metric laboratories; (c) are to be carried out by a group of eligible parties including consortia or other cooperative arrangement(s); and (d) are national in scope. Because of these higher costs, these projects will be funded at a higher level. They will generally exceed the average grant awards which support activities in single school districts or single institutions.

Based on these average funding ranges, it is estimated that these funds could support 46–50 new projects in addition to contract obligations. These estimates do not bind the U.S. Office of Education except as may be required by applicable statutes and regulations.

Application Forms: Application forms and program information packages are currently available. They may be obtained by writing to the Metric Education Program, U.S. Office of Education (1832 M Street, NW., Suite 835), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the final regulations, instructions, and forms included in the Metric Education Program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 50 pages in length. The Commissioner further urges that applicants not submit information that is not requested. Compliance with these suggestions should enhance the efficiency and objectivity of the analysis and evaluation of the applications.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Metric Education Program (45 CFR Part § 161b).

The Metric Education Program final regulations will soon be published in the Federal Register and will govern applications and grants under this program. Applicants are to base their applications on the final regulations.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c). EDGAR was published as a notice of proposed rulemaking on May 4, 1979, FR 26298. The final regulations will soon be published in the Federal Register and will govern applications and grants under the Metric Education Program.

Application Specifications: Applicants must forward one original and two copies of the application to the Application Control Center of the U.S. Office of Education.

Further Information: For further information, contact Dr. Floyd A. Davis, Program Manager, Metric Education Program, BSI, U.S. Office of Education (1832 M Street, NW., Suite 835), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 653–5920.

(20 U.S.C. 2051–2954)

(Catalog of Federal Domestic Assistance Number 13.561 Metric Education Program)

Dated: February 25, 1980.

William L. Smith,

Commissioner of Education.

[FR Doc. 80-6515 Filed 2-29-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14912-B]

Alaska Native Claims Selection

By Decision to Issue Conveyance (DIC) dated June 26, 1978, certain lands in the vicinity of Northway were determined proper for village selection and approved for conveyance to Northway Natives Incorporated pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976)) (ANCSA).

On July 26, 1978, Northway Natives Incorporated appealed the DIC of June 26, 1978, to the Alaska Native Claims Appeal Board (ANCAB).

On August 20, 1979, a decision was issued modifying the DIC of June 26, 1978, as to the conformance of easements. This decision was appealed on September 20, 1979.

On December 26, 1978, ANCAB issued an "Order Approving Stipulation," which became final January 10, 1980, ordering the Bureau of Land Management to:

1. Vacate the DIC dated June 26, 1978, insofar as it approves for interim conveyance Sections 27 and 34, T. 15 N., R. 18 E., Copper River Meridian;

2. Approve for interim conveyance to Northway Natives Incorporated Sections 2 and 3, T. 13 N., R. 19 E., Copper River Meridian; and

3. Amend the Modification Decision conforming easements, dated August 20, 1979, to delete the reservation of easements designated EIN 29 D9; EIN 53 C4, C5, E and EIN 53a C4, C5, E.

This decision is being issued to comply with the abovementioned ANCAB order to:

1. Vacate the DIC of June 26, 1978, as to certain lands;

2. Approve additional lands for interim conveyance; and

3. Delete 3 easements reserved to the United States from the Modification Decision conforming easements, dated August 20, 1979.

Therefore, the June 26, 1978, DIC is hereby vacated as to the following described lands:

Copper River Meridian, Alaska (Unsurveyed)

T. 15 N., R. 18 E.
Sec. 27, excluding the Tanana River;
Sec. 34, all.

Containing approximately 1,270 acres.

Also, the Easement Conformance Decision of August 20, 1979, is modified to delete the following:

a. (EIN 29 D9) A one (1) acre site easement, upland of the ordinary high water mark, in Sec. 21, T. 14 N., R. 19 E., Copper River Meridian, on the right bank of Moose Creek. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the stream along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 53 C4, C5, E) A site easement, upland of the ordinary high water mark, in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, on south shore of Fish Lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 53a C4, C5, E) An easement for a proposed access trail, twenty-five (25) feet in width, from trail EIN 53 C4, C5, E in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

Except as modified by this decision, the decisions of June 26, 1978, and August 20, 1979, stand as written.

On December 12, 1974, Northway Natives Incorporated, for the Native village of Northway, filed selection application F-14912-B, as amended, under the provisions of Sec. 12 of ANCSA, for the surface estate of certain lands in the vicinity of Northway.

Northway Natives Incorporated, in its application, excluded the following water bodies as being navigable:

Fish Lake
Unnamed lake in NW¼, Sec. 2, T. 13 N., R. 19 E., Copper River Meridian
Open Creek and all lakes it flows through
Charleskin Creek and all lakes it flows through

Because these water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered reasonably compact if it excludes other lands available for selection within its exterior boundaries.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 1,280 acres, is considered proper for acquisition by Northway Natives Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Copper River Meridian, Alaska (Unsurveyed)
T. 13 N., R. 19 E.
Secs. 2 and 3, all.
Containing approximately 1,280 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Northway Natives Incorporated is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 107,658 acres. The remaining entitlement of approximately 7,542 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Northway Natives Incorporated, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 2, 1980, to file an appeal.

3. Any party known or unknwon who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Northway Natives Incorporated, Box 441, Northway, Alaska 99764;
Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Judith Kammins Albietz,
Chief, Division of ANCSA Operations.

[FR Doc. 80-6502 Filed 2-29-80; 8:45 am]
BILLING CODE 4310-84-M

[CA 6823]

California; Proposed Withdrawal and Reservation of Land

February 20, 1980.

The Forest Service, U.S. Department of Agriculture, has filed application Serial No. CA 6823 to transfer jurisdiction of the following described public land to National Forest status for inclusion in the Six Rivers National Forest. The land is within the limits of the National Forest, is suitable for National Forest administration, and such jurisdictional transfer will aid in the public administration of the land:

Humboldt Meridian

T. 3 S., R. 7 E.,
Sec. 16, E½SW¼SW¼ and SW¼SW¼SW¼.

The area described aggregates 30 acres within Trinity County, California.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the Federal Register giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16.B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(C) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

For a period of two years from the date of publication of this notice in the Federal Register, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Congress, it will be segregated for a period of 20 years from date of approval, or for such period of time as designated in the Act.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 80-6499 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-84-M

Utah, 1980 Through 1982 River Use Seasons for the San Juan River

AGENCY: Bureau of Land Management—Utah.

ACTION: Notice of maximum party size per trip limits and initial interim carrying capacity limits during the 1980 thru and including the 1982 River Use Seasons for the San Juan River.

SUMMARY: In 1974, the State Director for the Bureau of Land Management in Utah established criteria for issuing commercial permits to river guides and outfitters and setting amounts of use each would be entitled to. Noncommercial permits were also required that use could be managed within acceptable limits. The interim carrying capacity for the San Juan River (Montezuma Creek to Mexican Hat) was set at 7,000 passenger days during a five month major use season (May 1–September 30). Of this capacity 40% or 2,800 passenger days were reserved for commercial use and 60% or 4,200 passenger days were reserved for private use. In 1974, there was a no party size limitation established for the San Juan River (Montezuma Creek to Mexican Hat).

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, the Park Service Enabling Act of August 25, 1916, as amended, the Concessions Policy Act of October 9, 1965, Public Law 92-593 of October 27, 1972 (established the Glen Canyon National Recreation Area), and Memorandum of Understanding to Supplement No. 6 between the National Park Service and the Bureau of Land Management dated January 1, 1979, the maximum party size of 25 persons per trip (excluding boatmen for commercial trips, including boatmen for noncommercial trips) is established for the protection of the environment and potential wild river values of the San Juan River from Sand Island to Clay Hills Crossing. A maximum passenger day limit of 75 people per day at the Sand Island Launch ramp and the Mexican Hat launch ramp per calendar year (twelve month use season) is established for three (3) years beginning the 1980 thru and including 1982 River Use Seasons of the San Juan River from Sand Island to Clay Hills Crossing.

The above stated actions become effective upon date of this publication and will remain in effect until December 31, 1982 unless modified by future publication in the Federal Register.

DATE: Effective Immediately.

ADDRESS: District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION, CONTACT: District Manager, Moab District, (801) 259-6111.

S. Gene Day,

District Manager.

February 21, 1980.

[FR Doc. 80-6500 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-84-M

Mid-Atlantic Outer Continental Shelf Oil and Gas Lease Sale; Intent To Prepare an Environmental Statement for OCS Sale No. 59

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's New York Outer Continental Shelf Office intends to prepare an environmental statement (ES) on the offshore oil and gas leasing proposal known as OCS Sale No. 59. This proposed sale, which would be third in the Mid-Atlantic, is tentatively scheduled for December 1981. A total of 253 lease blocks, comprising 1,440,376 acres, have been selected for leasing consideration and further environmental study. These blocks range from 64 to 113 statute miles offshore New York, New Jersey, Delaware, Maryland and Virginia, and range in water depths from 318 to 7792 feet.

Alternatives to be considered in the environmental statement will include

options to modify, delay, or withdraw the proposed lease offering. The draft environmental statement is scheduled for publication in November 1980.

A series of meetings has been scheduled to promote public participation in defining the significant issues that relate to the proposed leasing action. Interested persons are encouraged to attend and present their views at one of the following locations:

Dates and Locations

March 11, 1980: Community Room, Dover Township Municipal Complex, 33 Washington Street, Toms River, New Jersey.

March 12, 1980: Council Chambers, City Hall, Third and Baltimore Aves., Ocean City, Maryland.

March 13, 1980: City Council Chambers, Administration Building, Virginia Beach Municipal Center, Virginia Beach, Virginia.

There will be 2 sessions at each locations: 3–5 p.m. and 7–9 p.m.

While any public comment is welcome, written statements (which may be read at the meeting if the author wishes) are encouraged. Supplemental information or additional comments may be sent the New York OCS Office no later than March 21, 1980.

For further information regarding the public meetings or the Sale No. 59 ES, contact Nancy Prolman, New York OCS Office, 26 Federal Plaza, Suite 32–120, New York, New York 10007. Telephone (212) 264–5580.

Ed Hastey,

Associate Director, Bureau of Land Management.

February 22, 1980.

[FR Doc. 80-6538 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-84-M

[ES 16968]

Coal Lease Offering by Sealed Bid; Correction

February 26, 1980.

In FR Doc. 80–5357, appearing in the issue of Thursday, February 21, 1980 on page 11537, the following change should be made: The heading serial number is corrected to read: ES 16968.

Thomas C. DeRocco,

Acting Director, Eastern States.

[FR Doc. 80-6480 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Glen Canyon National Recreation Area; Mineral Management Plan

Notice is hereby given that the Mineral Management Plan for Glen Canyon National Recreation Area is approved as of March 3, 1980. This document describes mineral resources and identifies areas which are open to mineral disposition. It also identifies areas containing outstanding mineral rights, and the intent of the National Park Service to manage the lands containing these rights if and when they are acquired. These include Federal oil and gas leases, lands owned by Utah and Arizona, rights owned by the Navajo Indian Tribe and private sources and mining claims.

Mineral resources described are: oil-impregnated rocks, oil and gas, coal, uranium and vanadium, copper, manganese, gold, gravel, halite and gypsum.

The General Management Plan for Glen Canyon National Recreation Area, approved on November 21, 1979, called for the preparation of this mineral management plan.

Following this mineral management plan will be the preparation of: (1) such regulations as are required for mining and mineral activities; and (2) procedural guidelines which will describe operator and Federal agency responsibilities. These will be prepared jointly by the Bureau of Land Management, the Geological Survey, and the National Park Service.

This mineral management plan was available to the public for review and comments from December 11, 1979 through January 14, 1980.

Copies of this plan may be obtained from Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040; the National Park Service, Utah State Office, 125 South State Street, Salt Lake City, Utah 84138; and the National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

Dated: February 12, 1980.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 80-6476 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Temporary Water Service Contracts; Intent To Enter Into Temporary Water Service Contracts

The Regional Director of the Water and Power Resources Service of the Department of the Interior may enter into interim water service contracts with individuals, corporations, districts or municipalities for irrigation and municipal and industrial water when such water is surplus to project needs. Contracts of this type can be entered into upon short notice to meet emergency or temporary demands. However, they may not exceed 1 year in duration and are limited to not more than 10,000 acre-feet per irrigation contractor or 500 acre-feet per municipal and industrial contractor.

The Regional Director at Billings, Montana, of the Upper Missouri Region of the Service, encompassing Montana east of the Continental Divide, northrn Wyoming, North Dakota, and South Dakota, is delegated the authority to execute such contracts. At this time, it appears that surplus water will be available for sale from the Boysen, Riverton, and Keyhole Units of the Pick-Sloan Missouri Basin Program in Wyoming; Shadehill Unit in South Dakota; Lower Marias and Canyon Ferry Units in Montana; Yellowtail Unit in Montana and Wyoming; and Heart Butte Unit in North Dakota. Other water and power projects in the region with regulated reservoir storage also may have minor quantities of surplus water available to meet temporary demands. All releases would be subject to State laws for beneficial use and prior appropriation rights.

Parties interested in receiving information about the water-marketing program can contact William E. Crosby, Chief, Economics and Repayment Branch, Division of Water and Land, Water and Power Resources Service, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657–6413.

Parties interested in obtaining a temporary supply of water from a Water and Power project should apply in writing to the Regional Director, Upper Missouri Region, Water and Power Resources Service, at the same address.

Dated: February 26, 1980.

Clifford L. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-6468 Filed 2-29-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's

Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of suthority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 11, 1980.

By the Commission Review Board Number 5 Members Krock, Taylor, & Friedman. (member Friedman not participating).

Agatha L. Mergenovich,

Secretary.

MC-F-14239F, filed November 30, 1979. MOTOR EXPRESS, INC. (Transferee) (Motor) (500 Bulkley Building, Cleveland, OH 44115)—Purchase (Portion)—MOTEK TRANSPORT, INC. (Transferor) (Motek) (345 Main Street, Suite 104, Box 123, Harleysville, PA 19438). U.S. Truck Line, Inc. of Delaware, a publicly held corporation, who controls Motor through stock ownership, also acquiring control. Transferee's Representative: Roy D. Pinsky, Suite 1020, State Tower Building, Syracuse, NY 13202. Transferor's Representative: Robert D. Gunderman, 710 Statler Hilton, Buffalo, NY 14202. The interstate operating rights to be acquired by Motor are contained in Motek's certificate No. MC-1335, issued August 8, 1979, authorizing operations in interstate or foreign commerce, as a motor common carrier, of *general commodities* (except livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes, between Buffalo, NY, and Syracuse, NY; from Buffalo over NY Hwy 33 to Batavia, then over NY Hwy 33 to Rochester, NY, then over NY Hwy 31 to junction NY Hwy 57, then over NY Hwy 57 to Syracuse, serving all intermediate points. Motek will retain that portion of the lead certificate which authorizes the transportation over A. regular routes, (1) *general commodities* with usual exception, (a) between Newark, NY, and Philadelphia, PA, (b) between Syracuse, NY, and Oswego, NY, and (2) *general commodities,* with usual exceptions and livestock, between Buffalo, NY, and New York, NY, B. alternate routes, *general commodities,* with usual exceptions and livestocks, (1) beween Fonda, NY, and Catskill, NY, (2) between Palatine Bridge, NY, and junction NY Hwys 162 and 30-A, (3) between Cairo, NY, and Saugerties, NY, (4) between Buffalo, NY, and junction NY Hwy 5 and U.S. Hwy 20 near Avon, NY, (5) between Syracuse, NY, and Lafayette, NY, (6) between Lafayette, NY, and Stroudsburg, PA, (7) between Auburn, NY, and Lafayette, NY, (8) between Stroudsburg, PA, and Trenton, NJ, and (9) between Stroudsburg, PA, and junction NJ Hwys 3 and 17, and C. irregular routes, (1) *general commodities,* with usual exceptions, between various points in NJ and NY, and (2) *various commodities* between points in MD, NJ, PA, CT, MA, DE, OH, RI, and DC. Motor Express presently operates as a motor common carrier under No. MC-3420 and subs thereunder. Condition: Authorization and approval of this transaction is conditioned upon (1) the modification of Motek's Certificate in MC-1335 to eliminate that portion which duplicates what is being sold to Motor, and (2) the receipt of a letter from Motek accepting the restriction and requesting a new certificate be issued. Therefore, MC-13335 will be restricted against the transportation of traffic at Batavia, NY. (*Hearing site:* Cleveland, OH, or Buffalo, NY.)

Note.—Dual operations are involved.

MC-F-14248F, filed December 4, 1979. R-W SERVICE SYSTEM, INC., (R-W) (20225 Goddard Road, Taylor, MI 48180)—MERGE—IVORY VANLINES, INC. (Ivory) (5601 Corporate Way, Suite 107, West Palm Beach, FL 33407). Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Ivory seeks to merge its operating rights and property into R-W for ownership, management, and operation. By this same application, McLouth Steel Corporation, a non-

carrier which controls R–W through sole stock ownership; seeks authority to acquire control of the said motor carrier operating rights and properties of Ivory, through the transaction. Ivory is authorized to operate as a motor common carrier, in interstate or foreign commerce, pusuant to certificates issued in MC 72235 and sub-numbers there under, which essentially authorize the transportation of household goods, between points in the United States (except VT), and various specified commodities between points in the States of AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MA, MD, MI, MN, MO, NH, NJ, NY, NE, NC, ND, OH, OK, PA, RI, SD, TN, VA, WV, WI, and DC. R–W operates as a motor common carrier, in interstate or foreign commerce, pursuant to cerificates in MC 55896 and sub-numbers thereunder, transporting general commodities and specified commodities, over regular and irregular routes, primiarly between those points in the United States in and east of ND, SD, NE, CO, OK, and TX. Condition: McLouth Steel Corporation shall continue to be deemed a carrier within the meaning of 49 U.S.C. § 11348 and be subject to filing of such special reports that may be required by the Commission under 49 U.S.C. § 11145, as provided in our decisions in MC–F–12269 and MC–F–12955.

MC–F–14265F, filed December 12, 1979. RISS INTERNATIONAL CORPORATION (Riss) (903 Grand Avenue, Kansas City, MO 64106)—Purchase—WEST TRANSPORTATION, INC. (West) (P.O. Box 1284, 3186 Old Tunnel Road, Lafayette, CA 94549). Representatives: Martin J. Rosen, 256 Montgomery Street, 5th Floor, San Francisco, CA 94104, and Ivan E. Moody, P.O. Box 2809, Kansas City, MO 64142). Riss seeks authority to purchase the operating rights of West. Republic Industries, Inc., a non-carrier and sole stockholder of Riss, and in turn, Robert B. Riss, the majority stockholder of Republic Industries, Inc., also seek to acquire control of the rights through the transaction. Riss is purchasing the interstate operating rights contained in West's certificates in MC–112999 (Sub-Nos. 4 and 5), which authorize transportation, in interstate or foreign commerce, as a common carrier, by motor vehicle, over: (1) regular routes, of *general commodities,* except those of unusual value, household goods as defined by the Commission, livestock, fresh fruits and vegetables, commodities in bulk, and those requiring special equipment: (A) Between Novato and San Ysidro, CA, at the United States-Mexican Border line: From Novato over U.S. Hwy 101 to junction Interstate Hwy 5 at Los Angeles, CA, then over Interstate Hwy 5 to San Ysidro at the United States-Mexican Border line; (B) Between junction U.S. Hwy 101 and CA Hwy 37 near Ignacio, CA, and junction CA Hwy 37 and Interstate Hwy 80 near Vallejo, CA, over CA Hwy 37; (C) Between Schellville and Lodi, CA, over CA Hwy 12; (D) Between San Francisco, CA, and the CA–NV State line, over Interstate Hwy 80; (E) Between Davis Junction and Yuba City, CA, and the CA–NV State line: From Davis junction over CA Hwy 113 to Tudor, CA, then over CA Hwy 99 to Yuba City, CA, thence over CA Hwy 70 to Hallelujah Junction, CA, then over U.S. Hwy 395 to the CA-NV State line; (F) Between Red Bluff, CA, and the United States-Mexican Border line: (1) From Red Bluff over CA Hwy 99 to junction Interstate Hwy 5 near Wheeler Ridge, CA, then over Interstate Hwy 5 to junction Interstate Hwy 10 in Los Angeles, CA, then over Interstate Hwy 10 to junction CA Hwy 86 at Coachella, CA, then over CA Hwy 86 to junction CA Hwy 111 near El Centro, CA, then over CA Hwy 111 to the United States-Mexican Border line (2) From Red Bluff over Interstate Hwy 5 to Woodland, CA, then over CA Hwy 113 to junction Interstate 80 near Davis, CA, then over Interstate Hwy 80 to Sacremento, CA, then over CA Hwy 99 to junction Interstate Hwy 5 near Wheeler Ridge, CA, then over Interstate Hwy 5 to junction Interstate Hwy 10 in Los Angeles, CA, then over Interstate Hwy 10 to junction CA Hwy 86 at Coachella, CA, then over CA Hwy 86 to junction CA Hwy 111 near El Centro, Ca, then over CA Hwy 111 to the United States-Mexican Border line; (G) Between San Francisco, CA, and the CA-NV State line: From San Francisco over Interstate Hwy 80 to Oakland, CA, then over Interstate Hwy 580 to junction Interstate Hwy 205, then over Interstate Hwy 205 to junction Interstate Hwy 5, then over Interstate Hwy 5 to Stockton, CA, then over CA Hwy 99 to Sacremento, CA, then over U.S. Hwy 50 to the CA-NV State line, (H) Between junction CA Hwy 4 and Interstate Hwy 80 near Pinole, CA, and Stockton, CA, over CA Hwy 4; (I) Between junction CA Hwy 33 and Interstate Hwy 205 near Tracy, CA, and junction CA Hwys 166 and 99 near Mettler Station, CA: From junction CA Hwy 33 and Interstate Hwy 205 near Tracy over CA Hwy 33 to junction CA Hwy 166 at Maricopa, CA, then over CA Hwy 166 to junction CA Hwy 99 near Mettler Station; (J) Between Watsonville, CA, and junction CA Hwys 152 and 99, near Fairmead, CA, over CA Hwy 152 (K) Between Vernalis and Modesto, CA, over CA Hwy 132; (L) Between Paso Robles, CA, and the CA-NV State line: From Paso Robles over CA Hwy 46 to junction CA Hwy 99 at Famoso, CA, then over CA Hwy 99 to Bakersfield, CA, then over CA Hwy 58 to Barstow, CA, then over Interstate Hwy 15 to the CA-NV State line; (M) Between junction CA Hwys 133 and 198 near Coalinga, CA, and junction CA Hwys 198 and 65 near Exeter, CA, over CA Hwy 198; (N) Between San Diego, CA, and the CA-NV State line, over U.S. Hwy 395 (O) Between Los Angeles, CA, and the CA-NV State line: From Los Angeles over CA Hwy 14 to junction U.S. Hwy 395 near Inyokem, CA, then over U.S. Hwy 395 to Bishop, CA, then over U.S. Hwy 6 to the CA-NV State line; (P) Between Los Angeles, CA, and the CA-AZ State line: From Los Angeles over CA Hwy 11 to junction U.S. Hwy 66 in Pasadena, CA, then over U.S. Hwy 66 to the CA-AZ State line; (Q) Between Los Angeles, CA, and the CA-AZ State line: From Los Angeles over CA Hwy 60 to junction Interstate Hwy 10 near Beaumont, CA, then over Interstate Hwy 10 to the CA-AZ State line, serving all intermediate points in (A) through (Q) above; (2) irregular routes, of *general commodities,* except those of unusual value, household goods as defined by the Commission, livestock, fresh fruits and vegetables, commodities in bulk, and those requiring special equipment. (A) Between points in the San Francisco Territory, as described in Note A; (B) Between points in the Los Angeles Basin Territory, as described in Note B; (3) regular and irregular routes, of *talc* from mines in NV within 10 miles of Palmetto, NV, to Lone Pine, CA, serving the intermediate points of Zurich and Big Pine, CA, for delivery only: From mines in NV within 10 miles of Palmetto over irregular routes to Junction NV Hwy 3, then over NV Hwy 3 to the NV-CA State line, then over CA Hwy 168 (formerly CA Hwy 3) to Big Pine, CA, and then over U.S. Hwy 395 to Lone Pine; and *Mining machinery and supplies,* maximum 10,000 pounds, from Lone Pine, CA, to mines in NV within 10 miles of Palmetto, NV serving the intermediate points of Zurich and Big Pine, CA, for pickup only: From Lone Pine over the above-specified regular and irregular routes to mines in NV within 10 miles of Palmetto, NV; (4) irregular routes, of *talc and clay,* in bulk, between points in Inyo County, CA. Riss is authorized to operate in interstate or foreign commerce, as a motor common carrier, throughout points in the United States, pursuant to certificates in MC–200 and sub-numbers thereunder. Johnson Motor Lines, a subsidiary of

Republic Industries, Inc., is authorized to operate in interstate or foreign commerce, as a motor common carrier, pursuant to certificates in MC-106401 and sub-numbers thereunder. Condition: Republic Industries, Inc., shall continue to be deemed a carrier within the meaning of 49 U.S.C. § 11348, as previously subjected by Division 3 in its decision served December 10, 1970, in MC-F-10477. (Hearing site: San Francisco, CA.)

Note A.—San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; then easterly along said boundary line to a point 1 mile west of U.S. Hwy 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Hwy 101 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Amaden Road to Hillsdale Avenue, easterly along Hillsdale Avenue to U.S. Hwy 101; northwesterly along U.S. Hwy 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capital Avenue; northwesterly along Capital Avenue to State Hwy 17 (Oakland Road); northerly along State Hwy 17 to Warm Springs; northerly along the unnumbered hwy via Mission San Jose and Niles to Hayward, northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley—Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Hwy 40 (San Pablo Avenue); northerly along U.S. Hwy 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

Note.—Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Hwy No. 118, approximately two miles west of Chatsworth; easterly along State Hwy No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Hwy No. 99; northwesterly along U.S. Hwy No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Hwy No. 60; southwesterly along U.S. Hwys Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary of San Jacinto Avenue; southerly along San Jacinto Avenue to State Hwy No. 74; westerly along State Hwy No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka and Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Hwy No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Hwy No. 395, southeasterly along said county road to U.S. Hwy No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.

MC-F-14266F, filed December 14, 1979. INTERSTATE MOTOR FREIGHT SYSTEM (Interstate) (110 Ionia Avenue, NW, P.O. Box 175, Grand Rapids, MI 49501)—Purchase (Portion)—MAGNOLIA TRUCK LINE, INC. (Magnolia) (P.O. Box 16587, Memphis, TN 38116). Representatives: Robert W. Gerson, 1400 Candler Bldg., Atlanta, GA 30303, and Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Interstate seeks authority to purchase a portion of the interstate operating rights of Magnolia. Fuqua Industries, Inc., a non-carrier and the sole stockholder of Interstate, seeks authority to acquire control of said rights through the transaction. Interstate is purchasing the interstate operating rights contained in Magnolia's lead certificate No. MC-64832, which authorizes the transportation, as a motor common carrier, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), over regular routes, between Hernando, MS, and Memphis, TN, over U.S. Hwy 51, serving the intermediate and off-route points in DeSoto County, MS, within seven miles of Hernando, MS. Interstate holds motor common carrier authority pursuant to certificates in MC-35628 and sub-numbers thereunder. (Hearing site: Washington, DC, or Atlanta, GA.)

Notes.—(1) Application for temporary authority has been filed. (2) Interstate states its intention to tack the regular—route authority sought above with its present regular and irregular-route authority.

MC-F-14268F, filed December 17, 1979. RONALD W. KAUFFMAN (Kauffman) (Port Columbus International Airport, Columbus, OH 43219)—Control—COLUMBUS PARCEL SERVICE, INC. (Columbus) (1009 Joyce Avenue, Columbus, OH 43219). Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Kauffman, and individual, seeks authority to control Columbus through the purchase of 50% of the common stock of Columbus. J. C. Underwood, the sole shareholder of Columbus, has given Kauffman a cognovit promissory note for $100,000 in exchange for a loan to Columbus. Kauffman, in exchange for 50% of the stock of Columbus, will endorse the promissory note over to Columbus. Columbus holds motor common carrier authority pursuant to certificates in MC-140361 and sub-numbers thereunder, which authorize the transportation over irregular routes of the following: (1) *flowers, plants, decorative greens, and fruit*, having a prior or subsequent out-of-State movement by air, rail, or motor

vehicle, when moving at the same time and in the same vehicle with intrastate shipments of non-exempt commodities, between points in OH; (2) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (a) between points in OH, (b) between points in OH, on the one hand, and, on the other, points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, KY, and Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV, and (c) between points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, KY, and Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV, restricted in (a), (b), and (c) above against the transportation of articles or packages weighing in the aggregate more than 200 pounds from one consignor to one consignee in any on day; and (3) *general commodities* (except Classes A and B explosives), (a) between points in OH, (b) between points in OH, on the one hand, and, on the other, points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, Ky, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV, and (c) between points in Dearborn, Franklin, Randolph, Union, and Wayne Counties, IN, Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, KY, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, Ohio, Pleasants, Tyler, Wayne, Wetzel, and Wood Counties, WV, restricted in (a), (b), and (c) above (i) to the transportation of individual articles not exceeding 100 pounds in weight, moving as shipments not exceeding 500 pounds in weight, from one consignor to one consignee in a single day, and (ii) to the transportation of shipment moving on bills of lading issued by freight forwarders. Ronald W. Kauffman owns 25% of the stock of United Transportation Company, Inc., which owns all the shares of Quick Air Freight, Inc., a motor common carrier operating pursuant to certificates issued in MC-116101 and sub-numbers thereunder. Quick Air Freight, Inc., owns all the shares of Vandalia Air Freight, Inc., a motor common carrier operating pursuant to certificates issued in MC-120265 and sub-numbers thereunder. (Hearing site: Columbus, OH.)

[FR Doc. 80-6547 Filed 2-29-80; 8:45 am]
BILLING CODE 7035-01-M

[Application No. MC-1493]

National Motor Freight Traffic Association

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rates; Application No. MC-1493.

SUMMARY: The National Motor Freight Traffic Association, Inc., Agent, on behalf of carriers parties to the National Motor Freight Classification, seeks to further amend Released Rates Order No. MC-1 for the purpose of expanding this authority to provide for the application of class or exception ratings or commodity rates on Rugs; Leather scrap; Ores; Paintings or Pictures; Chinaware, Earthenware, Procelainware or Stoneware; Printed Matter, Paper or Paperboard; Silks, Spun, Schappe, or thrown, and Graphite Crucibles, when released as to value by shipper.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., Agent, 1616 "P" St., N.W., Washington, D.C. 20036, Tel. (202) 797-5310.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10703 and 11707.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-6546 Filed 2-29-80; 8:45 am]
BILLING CODE 7035-01-M

Office of Proceedings

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 8

February 22, 1980.

MC 88368 (Sub-42TA), filed November 15, 1979, and published in the Federal Register issue of January 21, 1980, and republished as corrected this issue. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Bar, kitchen and food service furniture, fixtures, furnishings, equipment and supplies (except foodstuffs), and accessories, materials and parts thereto,* from Bellwood, IL, Peru, IN, Kansas City and commercial zone, and St. Louis, MO, Cleves, Dayton, Eaton, and Miamisburg, OH, Hudson and Oshkosh, WI to points in AZ, CA, FL, IA, IN, KS, MN, MO, NM, ND, OH, TN, TX, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Fixtures Co., 22 Mead Street, Dayton, OH 45402. Send protests to: Vernon Coble, DS, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106. The purpose of this republication is to complete scope of the application as previously omitted.

MC 119619 (Sub-143TA), filed November 28, 1979, and published in the Federal Register issue of February 11,

1980, and republished as corrected this issue. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Piken and Piken, Inc., Queens Office Tower, 95-25 Queens Boulevard, Rego Park, NY 11374. *Foodstuffs* (except in bulk), from the facilities utilized by Purity Cheese Co., a Div. of Anderson Clayton Co. at Mayville, WI, to points in CT, DC, DE, MD, ME, NH, NJ, OH, PA, RI, VA, VT, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Purity Cheese Co., Division of Anderson Clayton Co., P.O. Box 226165, Dallas, TX 75266. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to include the following states as previously omitted: District of Columbia (DC), Delaware (DE), Maryland (MD), Rhode Island (RI), Virginia (VA), and West Virginia (WV).

MC 145978 (Sub-3TA), filed July 24, 1979, and published in the Federal Register issue of January 28, 1980, and republished as 2nd correction this issue. Applicant: R & S TRUCKING, INC., RR 1, Box 123, Garretson, SD 57030. Representative: A. J. Swanson, P.O. Box 1103, 300 S. Thompson Avenue, Sioux Falls, SD 57101. (1) *Refuge containers,* from Sioux Falls, SD to points in KS, IA, IL, LA, MI, MO, MN, ND, NY, OK, OH, PA, TX, TN, UT, WI and WY, and (2) *iron and steel articles and casters,* from Toledo, OH, Sioux City, IA, Minneapolis, MN, Chicago, IL, Gary, IN, Hustiford, WI, and Kansas City, MO to Sioux Falls, SD, for 180 days. An underlying ETA seeks 90 days authority. (Supporting shipper: Teem Enterprises, Inc., 3509 Teem Dr., (P.O. Box 1381), Sioux Falls, SD 57101. Send protests to: J. L. Hammond, ICC, Room 455, Federal Building, Pierre, SD 57501. The purpose of this republication is to show Sioux Falls, SD in lieu of Sioux City, SD as previously published.

MC 146378 (Sub-2TA), filed June 1, 1979. Applicant: PAUL H. HARPOLE TRUCK SERVICE, INC., 22 Wilshire Ct., Belleville, IL 62223. Representative: William Gagen, 118 S. Charles St., Belleville, IL 62221. (1) *Tires, machinery, and supplies used in the manufacture of tires,* between the facilities of the General Tire and Rubber Co. at Akron, OH and points in CA, IL, IN, KY, MI, MO, OH, PA and WI; (2) *Household appliances, equipment, materials and supplies used in the manufacture and distribution thereof,* between the facilities of General Electric Co. at Appliance Park, Louisville, KY and points in WI, IL MO, IN, MI, OH, and PA; (3) *Automobile parts and accessories, related racks, and containers and related iron and steel articles,* between points in CA, IL, OH, IN, KY, MI, MO, NJ, NY, PA, WI, and Louisville, KY and the Detroit, MI Commercial Zone, and from points in MI to the Ford Motor Plants at Claycomo, MO, St. Louis, MO, Pico Rivera, CA and Milpitas, CA; and (4) *Candy and confectionery N.O.I.,* from the facilities of Hollywood Brands, Inc., at Centralia, IL to points in KY, MD, MI, NJ, NY, OH, PA, WI, and WV in vehicles equiped with mechanical refrigeration for 180 days. An underlying ETA was granted for 90 days. Supporting shippers: The General Tire & Rubber Co., #1 General St., Akron, OH 44329; General Electric Co., Appliance Park, Louisville, KY 40225; Ford Motor Co., One Parkland Blvd., Parkland Towers E., Suite 200, Dearborn, MI 48126; Hollywood Brands, Inc., 836 S. Chestnut St., Centralia, IL 62801. Send protests to: Cheryl Livington, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 148768 (Sub-1TA), filed November 19, 1979. Applicant: JAMES S. SHAPKOFF, d.b.a. VERNON MOVING & STORAGE COMPANY, P.O. Box 557, Leesville, LA 71446. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, DC 20006. *Used household goods* between points in Vernon, Beauregard, Allen, Natchitoches, Sabine, Jefferson, Cameron, Calcasieu and Orange Parishes, LA and Sabine, Angelina, Jasper, Newton, Nacogdoches, San Augustine and Shelby Counties, TX, for 180 days. Restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Applicant has filed an underlying ETA seeking 90 days. Supporting shippers: Four Winds Forwarding Company, P.O. Box 80771, San Diego, CA 92138; Cartwright International Van Lines, Inc., 11901 Cartwright Ave., Grandview, MO 64030; Astron Forwarding Company, 1660 Factor Ave., San Leandro, CA 94577. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

Notice No. F-5

The following applications were filed in Region 1.

Send protests to: Complaint/Authority Center, I.C.C., 150 Causeway Street, Room 501, Boston, MA 02114.

MC 34485 (Sub-1-1TA), filed February 14, 1980. Applicant: CLARK & REID COMPANY, INC., P.O. Box 426, Burlington, MA 01803. Representative: Charles Ephraim, Ephraim and Flint, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. *Household goods,* between points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Johnson and Johnson, Inc., 501 George Street, New Brunswick, NJ 08902; AMSTAR, 1251 Avenue of the Americas, New York, NY 10020; The Cabot Corporation, 125 High Street, Boston, MA 02110; Stone & Webster Eng. Corp. 245 Summer Street, Boston, MA 02107; Union Carbide Corporation, 270 Park Avenue, New York, NY 10017; Massachusetts Life Insurance Company, 1295 State Street, Springfield, MA 01101; New England Mutual Life Insurance Company, 501 Boylston Street, Boston, MA 02117; Crawford & Russell, Inc., 17 Amelia Place, Stamford, CT 06904; Arkwright-Boston Ins. Co., 225 Wyman Street, Waltham, MA 02154.

MC 134197 (Sub-1-1TA), filed February 19, 1980. Applicant: JACKSON AND JOHNSON, INC., Box 327, Savannah, NY 13146. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Foodstuffs* (except in bulk), *frozen foods, material, supplies, and equipment used in the distribution thereof, in straight or mixed shipments,* between points in NJ, PA, DE, MD, DC, ME, VT, NH, MA, CT, RI, NY, NY Commercial Zone and NY Counties of Nassau, Suffolk, Westchester, and Rockland on the one hand and the facilities of Seneca Foods Corporation at Marion, Williamson, E. Williamson, Newark, Oaks Corners, Dundee, Himrod, and Penn Yan, NY on the other, for 180 days. An underlying ETA seeks 90 days authority.

MC 120028 (Sub-1-1TA), filed February 14, 1980. Applicant: CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representatives: Herbert M. Canter, Esq. and Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. *(1) Plastic articles (except commodities in bulk), and (2) Equipment, materials, and supplies used in the manufacture and distribution of plastic articles (except commodities in bulk),* between Canandaigua, Ontario County, NY, on the one hand, and, on the other, points in DE, IA, IL, IN, KY, MA, MI, NJ, NY, OH, WV and WI, *Restricted* to the transportation of traffic originating at or destined to the facilities of Canandaigua Plastics Division of Voplex Corporation for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Canandaigua Plastics Division of

Voplex Corporation, 203 North Street, Canandaigua, NY.

MC 78687 (Sub-1–2TA) filed February 14, 1980. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachen Bank Building; 666 Eleventh Street NW., Washington, DC 20001. Fly ash, in bulk, in tank vehicles, from Indiana, Huff, Homer City, and Shelocta, PA, to points in NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Minerals Corporation, R.D. #4, Box 189B, Indiana, PA 15701.

MC 125403 (Sub-1–1TA), filed February 14, 1980. Applicant: S.T.L. TRANSPORT, INC., 120 Grace Avenue, P.O. Box 369, Newark, N.Y. 14513. Representative: S. Michael Richards, P.O. Box 225, Webster, N.Y. 14580. (1) *foodstuffs (except in bulk) and materials, supplies, and equipment used in the distribution thereof,* and (2) *frozen foods,* (1) between Marion, Williamson, East Williamson, Newark, Oaks Corners, Dundee, Penn Yan, and Himrod, NY and all points in NJ, OH, PA, DE, MD, and New York City, and its commercial zone and the New York State counties of Nassau, Suffolk, Westchester and Rockland, and (2) from Marion, Williamson, East Williamson, Newark, Oaks Corners, Dundee, Penn Yan, and Himrod, NY to all points in MA, CT and RI. Restricted to traffic originating at or destined to the facilities of Seneca Foods Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Seneca Foods Corporation, Main Street, Marion, N.Y. 14505.

MC 113843 (Sub-1–1TA); filed February 14, 1980. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA, 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA, 02210. *Felt, NOI* From: Millbury, MA to Jackson, MI. For 180 days. Supporting shipper: Felters Co. in Millbury, MA.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 13134 (Sub-2–1TA), filed February 4, 1980. Applicant: GRANT TRUCKING, INC., Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Expanded plastic products,* from the facilities of Dow Chemical at Hanging Rock, OH, to points in VA, NC, SC, GA, FL, AL, MS, TN, KY, for 180 days. Supporting Shipper(s): Dow Chemical USA, P.O. Box 36000, Strongsville, OH.

MC 144331 (Sub-2–2TA), filed February 8, 1980. Applicant: EDWARD F. MADEIRA, INC., 514 Island St., Hamburg, PA 19526. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Contract carrier, irregular routes, *foundry sand additives, foundry facings and foundry core compounds,* from the facilities of The Hill & Griffith Co., at Burbank, OH to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV and DC, and *equipment, materials and supplies used in the production and manufacture of the above commodities,* from points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV and DC to the facilities of The Hill & Griffith Co., at Burbank, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Hill and Griffith Co., 1262 State Ave., Cincinnati, OH 54204.

MC 94265 (Sub-2–2TA), filed February 4, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs* (except in bulk), from Chicago, IL to Cleveland, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vienna Sausage Manufacturing Co., 2501 N. Damen Ave., Chicago, IL 60647.

MC 3121 (Sub-2–1TA); filed February 5, 1980. Applicant: STEEL TRUCKING, INC., 210 Northview Dr., Brookfield, OH 44403. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel and iron and steel articles and materials, supplies and equipment used or useful in the manufacture, sale, and distribution of iron and steel and iron and steel articles,* between Monroe, MI, on the one hand, and, on the other, points in OH, PA, NY, NJ, DE, MD and WV, under continuing contract with North Star Steel Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Star Steel Co., 2901 Metro Dr., Minneapolis, MN 55420.

MC 112304 (Sub-2–1TA); filed February 6, 1980. Applicant: ACE DORAN HUALING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John G. Banner (same address as applicant). *Iron and steel articles,* from Richland County, SC, to points in CO, KS and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Coated Products, 649 Rosewood Dr., Columbia, SC 29202.

MC 147815 (Sub-2–1TA); filed January 31, 1980. Applicant: CARGO TRANSPORT, INC., 918 W. Fifth St., Dayton, OH 45407. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933. *Expanded plastic products* (except commodities in bulk), from facilities of Dow Chemical U.S.A. located at Midland, MI to points in the U.S. on and east of US Hwy. 85, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical USA, Michigan Division, 47 Building, Midland, MI 48640.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 24379 (Sub-2), filed January 11, 1980. Applicant: LONG TRANSPORTATION COMPANY, 14650 West Eight Mile Road, Oak Park, MI 48237. Representative: Donald G. Hichman (same address as applicant). *Electronic bulbs or tubes; glassware; fibreboard boxes; glass tubing; electronic glass plates; and television bulbs or tubes or parts* between Columbus, OH, on the one hand, and, on the other, Marion, IN; Auburn, NY; Seneca Falls, NY; Syracuse, NY; Dunmore, PA; Pittston, PA; and Scranton, PA. An underlying ETA seeks 90 days authority. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1036, Toledo, OH 43666.

MC 107012 (Sub-4TA), filed January 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, Indiana 46801. Representative: Bruce W. Boyarko, P.O. Box 988, Fort Wayne, Indiana 46801. *Plastic bottles,* from the facilities of Hussey Molding located at or near Manchester, NH to Charleston, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904.

MC 140779 (Sub-1), filed January 29, 1980. Applicant: TRANSIT SERVICING, INC., 8121–C East 34 Mile Road, Cadillac, MI 49601. Representative: Burton A. Hines, Sr., 121 N. Mitchell St., Cadillac, MI 49601. *Contract; Irregular; General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment.)* The warehouse of Transit Servicing, Inc. at Cadillar, MI on the one hand, and on the other, points in the County of Gratiot in the lower peninsula of MI and the entire upper peninsula of MI restricted to traffic having a prior or subsequent interstate movement and destined to or originating at K Mart stores. An underlying ETA seeks 90 days authority.

Supporting shipper: K Mart Corporation, 3100 W. Big Beaver Road, Troy, MI 48084.

MC 69116 (Sub-1TA), filed January 25, 1980. Applicant: SPECTOR INDUSTRIES, INC. d.b.a SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Iron and steel articles; equipment, materials and supplies used in the manufacture and distribution of iron and steel articles;* between the plantsite and warehouse facilities of North Star Steel Company at or near Monroe, MI, on the one hand, and, on the other, points in the United States in and East of ND, SD, NE, KS, OK, and TX (except MI). An underlying ETA seeks 90 days authority. Supporting shipper: North Star Steel, 2901 Metro Dr., Minneapolis, MN 55420.

MC 95876 (Sub-1TA), filed January 31, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Iron and steel articles,* from the facilities of Valley Steel Products Co. at or near Carlinville, Centralia, Flora, Irvington, and Sparta, IL, and Louisiana and St. Louis, MO to points in AR, LA, OK, and TX. Supporting shipper: Valley Steel Products Co., P.O. Box 503, St. Louis, MO 63166.

MC 111812 (Sub-1TA), filed January 31, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls , SD 57101. *Insulating material,* from Menomonie and Prairie du Chien, WI to points in AZ, CA, CO, NM, OR, SD, UT, WA, and WY. Supporting shipper: 3M, 3M Center, St. Paul, MN 55101.

MC 147499 (Sub-1TA), filed January 9 1980. Applicant: D. H. TRANSFER, #671 M-73, Route 3, Iron River, MI 49935. Representative: Donald Hooper (address same as applicant). *Iron and steel articles* from the plant site of Armco, Inc. at or near North Lake, MI to Reserve Mining Company at Silver Bay, MN. An underlying ETA seeks 90 days authority. Supporting shipper: Armco, Inc., 7000 Roberts Street, Kansas City MO 64125.

MC 123294 (Sub-2TA), filed January 9, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Steel wire* from Kouts, IN, to Chicago and Des Plaines, IL, Edwardsburg, MI, and Mason, OH. Supporting Shipper: Merit Steel, Division of Nachman Corp., P.O. Box 1084, Norcross, GA 30071.

MC 101474 (Sub-1TA), filed January 10, 1980. Applicant: RED TOP TRUCKING COMPANY, INC., 7020 Cline Ave., Hammond, IN 46323. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Iron and steel articles, and materials, equipment and supplies used in the manufacture of iron and steel articles (except commodities in bulk, in tank vehicles),* between the facilities of Inland Steel Company at East Chicago, IN, on the one hand, and, on the other, points in AR, IL, IA, KY, MI, MN, MS, MO, NE, OH, TN and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Inland Steel Company, 30 W. Monroe St., Chicago, IL 60603.

MC 105045 (Sub-1), filed January 7, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: George H. Veech, P.O. Box 3277, Evansville, IN 47731. *Iron and Steel Articles* from plantsite of FabArc Steel Supply, Inc., at Oxford, AL to Boca Raton, FL, Chattanooga, TN, Atlanta, GA and El Paso, TX; and *Coil and Structural Steel* from Meridian, MS, New Orleans, LA, Houston, TX, Savannah, GA and Charleston, SC to Osford, AL. Supporting shipper: FabArc Steel Supply, Inc., P.O. Box 606, Anniston, AL 36202.

MC 109449 (Sub-1TA), filed January 8, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th Street, Winona, MN 55987. Representative: Gary Huntbatch, 6366 W. 6th Street, Winona, MN 55987. *Such merchandise as is dealt in by wholesale and retail gift stores,* from Addison, TX to Kansas City, MO and its Commercial Zone, restricted to shipments originating at or destined to the facilities utilized by Tuesday Morning, Inc. at the above named origin and destination. Supporting shipper: Tuesday Morning, Inc., 14621 Inwood Road, Addison, TX 75240.

MC 112049 (Sub-1), filed January 9, 1980. Applicant: McBRIDE'S EXPRESS, INC., East Route 316, Mattoon, IL 61938. Representative: Michael Solomon, 433 Thatcher Avenue, St. Louis, MO 63147. *Common; Regular; General commodities, with the usual exceptions* between Decatur, Clinton, and Tuscola, IL on the one hand, and on the other, Champaign, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Forty-four supporting shippers.

MC 50935 (Sub-1), filed January 8, 1980. Applicant: WOLVERINE TRUCKING CO., 1020 Doris Road, Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48085. *Malt beverages* (1) between Milwaukee, WI on the one hand, and on the other, Perry, GA, with empty containers on return; (2) from Perry, GA to Newark, NJ, with empty containers on return. An underlying ETA seeks 90 days authority. Supporting shipper: Pabst Brewing Co., 917 W. Juneau Avenue, Milwaukee, WI 53201.

MC 109449 (Sub-2TA), filed January 8, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch, 6366 West 6th Street, Winona, MN 55987. *Malic Acid in bags, barrels and boxes,* from Duluth, Minnesota to Chicago, Illinois. An underlying ETA seeks 90 days authority. Supporting shipper: Stuart Hale Co., 4350 W. Ohio St., Chicago, IL.

MC 133689 (Sub-2), filed January 23, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Starch and dehydrated corn syrup (except in bulk)* from Keokuk, IA to points in and east of ND, SD, NE, KS, MO, TN and MS. Supporting shipper: Hubinger, subsidiary of H. J. Heinz Co., 601 Main St., Keokuk, IA 52632.

MC 145765 (Sub-1), filed January 23, 1980. Applicant: WIEST TRUCKLINE, INC., 1305 Sixth Avenue S.W., Jamestown, ND 58401. Representative: William J. Gambucci, Suite M-20, 400 Marquette Avenue, Minneapolis, MN 55402. *Insulation material, expanded plastic articles* from Belvidere, IL to points in MN, NE, ND and SD. Supporting shipper: Apache Building Products, 1005 McKinley Avenue, Belvidere, IL 61008.

MC 135152 (Sub-2), filed January 21, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 3, West Harrison, Indiana 45030. Mailing Address: P.O. Box 327, Harrison, Ohio 45030. Representative: James Campbell (address same as applicant). *Household appliance, equipment, material, and supplies used in the manufacture and distribution thereof, exempt commodities in bulk,* from the facilities of the General Electric Company at Louisville and Appliance Park, KY, to all points in the States of Illinois and Missouri. Supporting shipper: General Electric Co., Appliance Park, Louisville, KY 40225.

MC 148930 (Sub-2), filed January 28, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Drive, P.O. Box 416, Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503.

Contract; Irregular; Various industrial chemcials from South Bend, IN on the one hand, to Grand Rapids, MI and a 50-mile radius thereof on the other hand. An underlying ETA seeks 90 days authority. Supporting shipper: Van Walters & Rogers, Division of Univar, 59865 Market St., South Bend, IN 46613.

MC 124078 (Sub-3TA), filed January 30, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Cullet, (broken glass),* from Nashua, NH to Mansfield, MA. Supporting shipper: Owens-Illinois, Inc., 405 Madison Ave., P.O. Box 1035, Toledo, OH 43666, D. R. Krause, Supervisor—Raw Materials.

MC 143909 (Sub-1TA), filed January 7, 1980. Applicant: KIRBY TRANSPORT, INC., P.O. Box 17, Gilberts, IL 60136. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Heating equipment and materials and supplies used in the manufacture and installation thereof, except in bulk,* from Los Angeles, San Diego, Fresno and Sacramento, CA to Phoenix, AZ, New Orleans, LA, Houston, TX, and points in CA and FL. An underlying ETA seeks 90 days authority. Supporting shipper: Solahart California, Division of S.W. Hart & Co., Pty. Ltd., 3560 Dunhil St., San Diego, CA 92121.

MC 142062, filed January 7, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., Post Office Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Contract; Irregular; Cleaning, scouring, washing and buffing compounds, and such other commodities as are dealt in or distributed by manufacturers of the above commodities,* from the facilities of Rochester Germicide Company, Inc., at or near Montgomery, IL, to Kent, WA; San Jose, CA; Denver, CO; Phoenix, AZ; Salt Lake City, UT; and Birmingham, AL, restricted to the transportation of shipments under a continuing contract or contracts with Rochester Germicide Company, Inc. Supporting shipper: Rochester Germicide Company, Inc., P.O. Box 1515, Rochester, NY 14603.

MC 51146 (Sub-5TA); filed January 9, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr., (same address as applicant). *Chemicals, drugs, medicines, toilet preparations, acids, food preservatives, medical supplies, plastic articles, when moving alone or in mixed loads* from St. Louis, MO to points in IL, IN, WI, OH, MI, IA, PA, NJ, KS, OK, TX, and KY. An underlying ETA seeks 90 days authority. Supporting shipper: Mallinckrodt, Inc., P.O. Box 5840, St. Louis, MO 63134.

MC 100109 (Sub-1TA); filed January 7, 1980. Applicant: H. STUMPF & SONS, R.R. 3, Worthington, MN 56187. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402, (612) 333–1341. *Feed, feed ingredients, and animal health products* from Worthington, MN to points in South Dakota and points in Iowa west of U.S. Hwy. 169 and north of U.S. Hwy 30. Supporting shipper: Allied Mills, Inc., P.O. Box 431, Hwy. #60 N., Worthington, MN 56187.

MC 139482 (Sub-3TA), filed January 8, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Bakery mixes and baking supplies,* from the facilities used by J. W. Allen Co. at or near Chicago, IL to the facilities used by J. W. Allen Co. at or near Burnsville, MN An underlying ETA seeks 90 days authority. Supporting shipper: J. W. Allen Co. 110 North Peoria, Chicago, IL 60607.

MC 107295 (Sub-2TA); filed January 9, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as above). *Doors, door frames; and parts and accessories thereof,* from Colorado Springs, CO, to points in and west of AL, MS, AR, MO, IA, and MN; and *materials and supplies used in the manufacture and distribution of doors, door frames, parts and accessories;* from points in IL, IN, OH and points in and west of AL, MS, AR, MO, IA, and MN, to Colorado Springs, Co. An underlying ETA seeks 90 days authority. Supporting shipper: Therma Tru, 6275 Lake Shore Court, Colorado Springs, CO.

MC 35628 (Sub-1); filed January 9, 1980. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue NW., Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Avenue NW., Grand Rapids, MI 49501. *Candy, confectionary products and cough drops* from Ludens, Incorporated facilities at Reading, PA to points in IL, IN, OH, MI and WI. Supporting shipper: Luden's, Inc., Reading, PA 19603.

MC 114632 (Sub-1TA), filed January 7, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, P.O. Box 287, Madison, SD 57042. *Aluminum and aluminum articles, and zinc alloy ingots,* from the facilities of Aluminum Smelting & Refining Co., Inc. and/or Certified Alloys Company at Maple Heights, OH to points in IL, IN, IA, KS, LA, MI, MN, MS, MO, NE, ND, OK, SD, TX and WI. Supporting shipper: Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137.

MC 135598 (Sub-1TA); filed January 8, 1980. Applicant: SHARKEY TRANSPORTATION, INC., 3803 Dye Road, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Paint and paint products* from Ft. Madison, IA, to Hartford, CT. Supporting shipper: E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898.

MC 134477 (Sub-7) filed February 7, 1980. Applicant: Schanno Transportation, Inc., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Air cleaner filter paper* (except in bulk), from Madisonville, KY; West Groton, MA; Rochester, MI; and Greenwich and Watertown, NY to Frankfort, IN for 180 days. Supporting shipper: Donaldson Company, Inc., 1400 W. 94th St., P.O. Box 1229, Minneapolis, MN.

MC 146821 (Sub-2) filed January 28, 1980. Applicant: RONALD BESTEMAN PRODUCE, INC., 2240 Byron Center Road SW., Wyoming, MI 49509. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Fresh and frozen meat and meat products, poultry products, and commodity items that are bought by Bil-Mar to be used in products that are produced by Bil-Mar Foods, Inc.* between all points in MI and OH, NY, PA, WV, KY, MO, IN, IL, WI, IA, MN and TN, in mechanically refrigerated vehicles, restricted against commodities in bulk, under contract with Bil-Mar Foods, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Bil-Mar Foods, Inc., 8300 96th Avenue, Zeeland, MI 49464.

MC 146880 (Sub-1) filed January 17, 1980. Applicant: LOWELL E. DENTON, d.b.a. DENTON CARTAGE COMPANY, 7322 W. 90th St., Bridgeview, IL 60455. Representative: David R. Hunt, P.O. Box 40, Palos Park, IL 60464. *General commodities, (except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment or handling)* between Chicago, IL and Des Plaines, IL on the one hand, and on the other, points in IL, IN, MI and MN, restricted to traffic originating at or destined to the facilities of Playskool, Inc., located at Chicago, IL or Des Plaines, IL. An underlying ETA seeks 90 days authority. Supporting

shipper: Playskool, Inc., 4501 West Augusta Blvd., Chicago, IL 60651.

MC 2484 (Sub-1 TA), filed January 25, 1980. Applicant: E & L TRANSPORT COMPANY, 23420 Ford Road, Dearborn Heights, Michigan 48127. Representative: Eugene C. Ewald, Attorney, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *Electric motor vehicles* in truckaway service, from Cleveland, Ohio to points in the U.S., (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Electric Vehicle Assn., Inc., 9100 Bank Street, Cleveland, OH 44125.

MC 107012 (Sub-3), filed January 25, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (address same as applicant). *New furniture, cartoned,* from the facilities of Kellar Industries, Inc., at or near Caldwell, TX to points in AZ, CA, CO, KS, NM and OK. An underlying ETA seeks 90 days authority. Supporting shipper: Kellar Industries, Inc., 18000 State Road Nine, Miami, FL 33162.

MC 146552 (Sub-1), filed January 28, 1980. Applicant: KENNETH LEE UTKE, P.O. Box 78, Palos Heights, IL 60463. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, IL 60603. *Contract; Irregular;* (1) *Such commodities as are dealt in by appliance manufacturers,* (2) *equipment, materials, and supplies thereof,* and (3) *commercial paper, documents and written instruments,* between Indianapolis, IN, on the one hand, and, on the other, Chicago, IL and Milwaukee, WI, and their respective Commercial Zones, restricted against the transportation of commodities in bulk, under a continuing contract or contracts with General Electric Company. An underlying ETA seeks 90 days authority. Supporting shipper: General Electric Co., 5600 W. 73rd St., Chicago, IL 60638.

MC 123407 (Sub-14TA), filed January 10, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *(1) Steel products; and (2) materials, equipment, and supplies for steel products* (1) from Roseboro, NC, to points in and east of ND, SD, NE, KS, OK, and TX; and (2) from points in OH to Roseboro, NC. An underlying ETA seeks 90 days authority. Supporting shipper: DuBose Steel Co., P.O. Box 1098, Roseboro, NC 28382.

MC 55896 (Sub-2TA), filed January 9, 1980. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as above). *Refractory Products,* from Wellsville, OH to Attica, IN. An underlying ETA seeks 90 days authority. Supporting shipper: Swank Refractories Co., 420 Rouser Road, Coraopolis Hts., PA 15108.

MC 121236 (Sub-1 TA), filed December 31, 1979. Applicant: SERVICE TRANSPORTAION LINES, INC., 729 34th Ave., Rock Island, IL 61201. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* (1) between Milwaukee, WI and Antioch, IL over U.S. Hwy 41, serving all intermediate points and the off-route point of Kenosha, WI, and (2) between Milwaukee, WI and South Beloit, IL over WI Hwy 15, serving all intermediate points. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately fifty-seven (57) supporting shippers.

MC 106674 (Sub-2TA), filed January 30, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Zinc Oxide* from Hillsboro, IL to AR, OK, WI, OH, PA, NJ, MD, IN and TN. An underlying ETA seeks 90 days authority. Supporting shipper: Eagle Picher Industries, Inc., P.O. Box 550—"C" & Porter St., Joplin, MO 64801.

MC 149184 (Sub-1), filed January 31, 1980. Applicant: Fifth Wheel Trucking, Inc., Route 4, Box 26, 908 Forrest Street, Black River Falls, WI 54615. Representative: William D. Marti, 908 Forrest St., Black River Falls, WI 54615. *Cheese* from points in WI to points in CA, AZ, UT, NM, CO and NV. An underlying ETA seeks 90 days authority. Supporting shipper: Associated Milk Producers, Inc., Box 455, New Ulm, MN 56073.

MC 146643 (Sub-4), filed February 1, 1980. Applicant: DAVID CRFECH TRANSPORTATION SYSTEMS, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. *Contract; Irregular; Metal cans, ends, lids, and covers* from Lima, OH to Chicago, IL and points in its commercial zones. Supporting shipper: Libby, McNeill & Libby, 5555 West 115th St., Worth, IL 60482.

MC 8515 (Sub-1), filed January 30, 1980. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Metal couplings, rubber hose, and pipe fittings, and materials and supplies used in the manufacture and distribution of such commodities* between points in CO, IL KS and MO. Supporting shipper: The Gates Rubber Company, 999 South Broadway, Denvr, CO 80217.

MC 145195 (Sub-2), filed February 4, 1980. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, North Dakota 58047. Representative: Charles E. Johnson, Attorney at Law, P.O. Box 1982, Bismarck, North Dakota 58501. (1) *Glass Bottles.* From Alton and Streeter, Illinois, and (2) *Contour Packs,* From Toledo, Ohio and Bardstown, Kentucky, to Fargo and Bismarck, North Dakota. for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper: Pepsi-Cola Bottling Company, 3802 15th Avenue North, P.O. Box 2465, Fargo, North Dakota, 58102.

MC 134477 (Sub-7), filed February 7, 1980. Applicant SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN. 55164. *Air cleaner filter paper* (except in bulk), from Madisonville, KY; West Groton, MA; Rochester, MI; and Greenwich and Watertown, NY to Frankfort, IN for 180 days. Supporting shipper: Donaldson Company, Inc., 1400 W. 94th St., P.O. Box 1229, Minneapolis, MN.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 600, Fort Worth, TX 76102.

MC 142672 (Sub-5–1TA), filed February 11, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Meat, meat products and meat by-products, and articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), and *cheese* between points in the United States (except AK and HI)—restricted to the transportation of traffic originating at or destined to the facilities of or used by International Trading Company.

MC 150018 (Sub-5–2TA), filed February 11, 1980. Applicant: H. RICHARD SCHWENKA d.b.a. SCHWENKA TRUCKING, Route 1, Box 172, Minden, NE 68959. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 South 14th St., Suite 500,

P.O. Box 81849, Lincoln, NE 68501. *Agricultural implements and machinery, and agricultural implements and machinery parts,* from the facilities of John Deere & Co., at or near East Moline, IL, and Waterloo, Des Moines and Ottumwa, IA, to the facilities of Minden Terminal, Inc., at or near Minden, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Minden Terminal, Inc., Richard A. McBride, President, Box 177, Minden, NE 68959.

MC 149321 (Sub-5–1TA), filed February 13, 1980. Applicant: SCHMIDT TRUCKING, INC., 520 East 8th Street, Garner, Iowa 50438. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a contract carrier by motor vehicle over irregular routes transporting (1) *Corrugated plastic tubing* between Lake Mills, IA, Montpelier, IN, Towanda and Lawrence, IL, Ann Arbor, MI and Geneva, NY, on the one hand, and, on the other points in CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, ND, OH, PA, SD, UT, WI and WY, (2) *Equipment, material and supplies* used in the manufacture, distribution and installation of corrugated plastic tubing (except commodities in bulk) from CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, ND, OH, PA, SD, UT, WI and WY to Lake Mills, IA, Towanda and Lawrence, IL, Montpelier, IN, Ann Arbor, MI and Geneva, NY, for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Certain-Teed/Daymond Company of Ann Arbor, MI.

MC 141293 (Sub-5–1TA), filed February 13, 1980. Applicant: J.R.R.W. TRANSPORT, INC., P.O. Box 5186, Coralville, IA 52241. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 East Main Street, Ottumwa, IA 52501, telephone: 515–682–8154. Authority sought to operate as a *contract* carrier, by motor vehicle, over irregular routes, transporting: Foods and Food Products, from points in TX to points in AL, AR, FL, GA, IL, IN, IA, LA, MO, MS, OH, SC, and TN.

MC 113908 (Sub-5–3TA), filed February 13, 1980. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., 2255 N. Packer Road, Springfield, MO 65804. Representative: Jim G. Erickson, P.O. Box 10068 G.S., 2255 N. Packer Road, Springfield, MO 65804. Liquid chemicals and syrups, in bulk from points in IL to points in AZ, AR, CA, CO, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI and WY. Supporting shippers: McKesson Chemical Company, 505 E. Trafficway, Springfield, MO; WITCO Chemical Corporation, 6200 West 51st Street, Chicago, IL 60638; National Starch & Chemical Corporation, 10 Finderne Avenue, Bridgewater, NJ 08807. NALCO Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521; Stepan Chemical Company, Edens and Winnetka, Northfield, IL 60093.

MC 124711 (Sub-5–1TA), filed February 19, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Rod Parker, P.O. Box 1050, El Dorado, KS 67042. *Liquid fertilizer solutions, in bulk, in tank vehicles,* from the facilities of Chevron Chemical Company at or near Friend, Kansas to Colorado, Nebraska, Oklahoma, Texas and New Mexico; for 180 days. Supporting shipper: Chevron Chemical Company, 3001 LBJ Freeway, Suite 130, Dallas, TX 75234.

MC 150008 (Sub-5–1TA), filed February 7, 1980. Applicant: KUELLA, INC., Rt. 2, King City, MO 64463. Representative: Lee Reeder, Michael A. Knepper, 1221 Baltimore Avenue, Suite 310, Kansas City, MO 64105. *Hides, partially processed, on pallets,* from St. Joseph, MO on the one hand, and on the other, to Berwick, ME for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Prime Tanning Co., Inc., Berwick, ME 02901. Contract carrier by motor vehicle, over irregular routes.

MC 119493 (Sub-5–1TA), filed February 19, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, P.O. Box 1196, Joplin, Missouri 64801. Flour, starch, and grain products (except commodities in bulk) from: Points in Kansas (except Buhler, Inman, McPherson, Whitewater, and Hutchinson) to: Points in AL, AR, FL, GA, LA, MS, MO, OK, TN, and TX.

Note.—No dual operation will be involved. Common control will not be involved. If a hearing is deemed necessary, applicant requests that it be held at: n/a.

MC 150120 (Sub-5–1TA), filed February 6, 1980. Applicant: HANEY TRUCKING, INC., 617 N. Timberland, Suite 202, P.O. Box 231, Lufkin, Texas 75901. Representative: William D. Lynch, P.O. Box 912, Austin, Texas 78767. *Meat & Meat Products, except hides,* from the facilities of Vernon Calhoun Packing Company and Boneless Beef Packing Company located in Anderson County, Texas to all points in the Continental United States. Supporting shipper: Vernon Calhoun Packing Company and Boneless Beef Packing Company, P.O. Box 709, Palestine, TX 75801.

MC 142672 (Sub-5–2TA), filed February 19, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *(1) Malt beverages and related advertising materials; and (2) empty, used beverage containers and materials and supplies used in and dealt with by breweries*—From Jefferson County, CO, on the one hand, and, on the other, points in AR.

MC 119399 (Sub-5–1TA), filed February 19, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara, P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. *Malt beverages* from the facilities of G. Heileman Brewing Co., LaCrosse, WI to Fayetteville, Fort Smith, and Newport, AR; and Springfield and Nevada, MO. Supporting shippers: Fayetteville Ice Co., Fayetteville, AR; Tri County Beverage, Inc., Ft. Smith, AR; A–Z Distributing Co., Inc., Newport, AR; Queen City Beer Distributors, Springfield, MO; J. Adams Sales Company, Inc., Nevada, MO.

MC 113908 (Sub-5–2TA), filed February 19, 1980. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson, Assistant Traffic Manager (same address as applicant). Liquid cleaning compounds, in bulk from: Hammond, IN, and St. Louis, MO, and their commercial zones thereof. To: Ft. Madison, IA, and the commercial zone thereof (restricted to traffic originating at the facilities of Lever Brothers Company). (Hearing site: Kansas City, MO, or Washington, DC.)

MC 135797 (Sub-5–3TA), filed February 19, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, Post Office Box 130, Lowell, Arkansas 72745. *Such commodities* as are dealt in or used by wholesale, retail and chain grocery and food business houses, and materials, equipment and supplies used in the manufacture, sale and distribution of such commodities (except commodities in bulk) between points in AL, AR, CA, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV and WI. Restricted to traffic originating at or destined to the facilities of The Kroger Company.

MC 150118 (Sub-5–1TA), filed February 19, 1980. Applicant: O. C. LUKKEN, INC., 2801 E Street, South Sioux City, IA 68776. Representative:

Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. (1) *Meat, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Pack at LeMars, IA to points in IL, MN, MO, SD and WI; (2) *Inedible meat,* between points in IA, IL, MN, MO, NE and WI, restricted in Part (2) to traffic moving for the account of Intex Commodities Corp., for 180 days. Supporting shippers: Dubuque Pack, LeMars, IA 51031; and Intex Commodities Corp., 605 South Sherman, Richardson, TX 75081.

MC 145744 (Sub-5-1TA), filed February 20, 1980. Applicant: C. V. SOHN, INC., 142 Midland, Maryland Heights, MO 63043. Representative: B. W. LaTourette, Jr., 11 South Meramec Ave., Suite 1400, St. Louis, MO 63105. *Meats, meat products, and meat by-products* from the facilities of Seitz Foods, Inc. and St. Joseph Terminal Warehouse, Inc., located at or near St. Joseph, MO to points in AL, FL, GA, KY, LA, MS, TN and TX for 180 days. Applicant intends to tack its authority. Underlying ETA for 90 days filed. Supporting shipper(s): Seitz Foods, Inc., P.O. Box 247, St. Joseph, MO 64502.

MC 135070 (Sub-5-5TA), filed February 19, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Candy and confectionery, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at or near Chicago, IL, to CA, LA, MO, OK, OR, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: M&M/Mars, Division of Mars, Inc., Kenneth Dunbar, Traffic Manager, High Street, Hackettstown, NJ.

MC 146055 (Sub-5-1TA), filed February 15, 1980. Applicant: JOHN H. SCHUMAN & DENNY SCHUMAN d.b.a. DOUBLE "S" TRUCK LINE, 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, Registered Practitioner, P.O. Box 37205, Omaha, NE 68137. Coin operated amusement games, or machines from points in CA to the facilities of Central Distributing Company, Omaha, NE.

MC 135861 (Sub-5-3TA) filed February 19, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. To operate as a *contract* carrier by motor vehicle over *irregular routes* transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Paelstine, TX to points in the US (except AK & HI), under continuing contract(s) with Vernon Calhoun Packing Company, Palestine, TX. Supporting shipper: Vernon Calhoun Packing Company, Box 709, Palestine, TX 75801.

MC 135797 (Sub-5-7TA), filed February 19, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, Arkansas 72745. Representative: Paul R. Bergant, Esquire, P.O. Box 130, Lowell, Arkansas 72745. *Shakes and shingles.* From points in Washington to points in Kansas.

MC 109397 (Sub-5-2TA), filed February 19, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foamed Plastic Carpet Cushion* from Burkart-Randall Division of Textron, Inc., Cairo, IL to points in AL, AR, IN, IA, KY, LA, OH, MI, MO, and TN. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: Regional Consumer Assistance Center, Suite 600, 411 West 7th Street, Ft. Worth, TX 76102.

MC 30844 (Sub-5-6TA), filed February 19, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 E. 67th Street, Tulsa, OK 74121. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. (1) Pipe covering, Rust preventive pipe line coating, Binding tape NOI, Bandages and dressings, Adhesive tape, and Plastic articles, requiring protective service, and (2) such materials and supplies as are used in the manufacturing of the commodities named in (1) above (except commodities in bulk in both Parts (1) and (2)) (1) from Franklin, KY to points in LA and TX, and (2) from points in LA and TX to Franklin, KY, restricted in (1) and (2) above to shipments originating or destined to the facilities utilized by The Kendall Company at the named origins and destinations.

MC 119493 (Sub-5-2TA), filed February 19, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Missouri 64801. Representative: Thomas D. Boone, Traffic Manager, P.O. Box 1196, Joplin, Missouri 64801. Iron and steel articles, machinery, materials, and supplies used in the manufacture and distribution thereof (except commodities in bulk). Between: Newton County, Missouri on the one hand and Points in California on the other hand.

Note.—No dual operation will be involved. Common control will not be involved. If a hearing is deemed necessary, applicant requests that it be held at: Joplin, MO or Kansas City, MO.

The following protests were filed in Region 6. Send protests to: ICC, P.O. Box 7413, San Francisco, CA 94120.

MC 136605 (Sub-6-2TA), filed February 11, 1980. Applicant: DAVIS TRANSPORT, INC., Post Office Box 8058, Missoula, MT 59807. Representative: Donald F. Walters, Post Office Box 8058, Missoula, MT 59807. *Commodities as are dealt in by Farm Supply Cooperatives,* from points in the United States to points in the states of Washington and Oregon (restricted to shipments destined to the account of Western Farmers Association).

MC 136605 (Sub-6-3TA), filed February 19, 1980. Applicant: DAVIS TRANSPORT, INC., Post Office Box 8058, Missoula, MT 59807. Representative: Allen P. Felton, Post Office Box 8058, Missoula, MT 59807. *Wrought steel pipe coated and wrapped wrought steel pipe* from the facilities of Northwest Pipe and Casing Company at or near Clackamas, OR to CO.

MC 75302 (Sub-6-1TA), filed February 12, 1980. Applicant: DOUDELL TRUCKING COMPANY, 555 East Capital Avenue, Milpitas, CA, Post Office Box 842, San Jose, California 95106. Representative: Ronald C. Chauvel, Handler, Baker, Greene & Taylor, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Milk cartons* from the facilities of International Paper Company located at Turlock, CA to the facilities of the Anderson Creamery located at Las Vegas, NV.

MC 144547 (Sub-6-1TA), filed February 20, 1980. Applicant: DURA-VENT TRANSPORT CORPORATION, 2525 El Camino Real, Redwood City, California 94064. Representative: Barry Roberts, 888 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a contract carrier by motor vehicle, over irregular routes, transporting: truck and trailer parts and accessories from points in the U.S., except AK and HI, to Fontana, CA, under a continuing series of contracts with Road Systems, Inc., of Fontana, CA, A C.F. Company.

MC 48958 (Sub-6-1TA), filed February 19, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East

51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Cat box absorbent (kitty litter), crushed rock, or oil absorbent* (except in bulk), from Kirkland, AZ, to points in the States of CA, CO, NV, and UT. An underlying ETA seeks 90 days' authority. Supporting shipper: Magic Mountain Mining Co., Mr. Larry Strass, Vice-President, P.O. Box 112, Kirkland, AZ 86332.

MC 77061 (Sub-6-1TA), filed February 19, 1980. Applicant: SHERMAN BROS., INC., 29534 Airport Road (Box 706), Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Plastic pipe and accessories,* (1) from the facilities of Simpson Extruded Plastics Co. located at or near Eugene, OR to points in WA, CA and ID; and (2) from the facilities of Simpson Extruded Plastics Co. at Sunnyside, WA to points in OR, CA and ID. An underlying ETA seeks 90 days authority. Supporting shipper: Simpson Extruded Plastics Co., P.O. Box 10049, Eugene, OR 97440.

MC 67015 (Sub-6-1TA), filed February 19, 1980. Applicant: TIGARD-SHERWOOD TRUCK SERVICE, INC., 1818 S.E. Second Street, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. *General commodities* (except classes A and B explosives), (1) From Portland, OR to Los Angeles, CA, and (2) from Los Angeles, CA to Portland, Medford and Eugene, OR. Restricted in (1) to transportation provided for Seaport Cooperative, Inc. and in (2) to transportation provided for Streamline Shippers Assn., Inc., in terminal to terminal service, with service authorized within commercial zones of points authorized. Supporting shippers: Seaport Cooperative, Inc., 730 NW. 11th Avenue, Portland, OR 97209; Streamline Shippers Association, Inc., 970 East Third Street, Los Angeles, CA 90013.

MC 150135 (Sub-6-1TA), filed February 20, 1980. Applicant: AAA FILTER SERVICE, INC., 2441 Front Street, Sacramento, CA 95691. Representative: Gregory P. Houser (same as applicant). *Filters, Fuel, Air, and Oil, in packages,* from the facilities of J. A. Baldwin Manufacturing Co., at or near Kearney, NB to points in CA in and north of Monterey, Kings, Tulare and Inyo Counties, for 180 days. Supporting shipper: J. A. Baldwin Manufacturing Co., Kearney, NB. 68847.

MC 144963 (Sub-6-1TA), filed February 20, 1980. Applicant: W. E. BATTLES, d.b.a. JOBBERS FREIGHT SERVICE, 111 North College Street, Grangeville, ID 83530. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. SUCH COMMODITIES AS ARE DEALT IN BY AUTO, TRUCK AND TRACTOR SUPPLY HOUSES; WELDING SUPPLIES; AND COMPRESSED GASES IN CONTAINERS, between Spokane, WA, on the one hand, and the facilities of Clarkston Auto Parts at or near Clarkston, WA; the facilities of Black Auto Parts, Brown Motors, Inc. and John Hoene Implement & Idaho County Sales at or near Grangeville, ID; the facilities of Monty's Kamiah Auto Center and Olive Auto Parts at or near Kamiah, ID; the facilities of C-Mac Auto Parts and Industrial Parts & Machine, Inc. at or near Lewiston, ID; the facilities of McGraw's Auto Parts at or near Moscow, ID; the facilities of Valley Motor Parts at or near Orofino, ID on the other, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: McGraw's Auto Parts, 510 W. 3rd St., Moscow, ID 83843; Black Auto Parts, 111 North College St., Grangeville, ID 83530; C-Mac Auto Parts, 1101 Main, Lewiston, ID 83501; Clarkston Auto Parts, 700 6th, Clarkston, WA 99403; John Hoene Implement & Idaho County Sales, Highway 95 North, Grangeville, ID 83530; Valley Motor Parts, College and A St., Orofino, ID 83544; Monty's Kamiah Auto Center, P.O. Box 247, Kamiah, ID 83536; Brown Motors, Inc., 118 W. S. First, Grangeville, ID 83530; Industrial Parts & Machine, Inc., 529 E. 22nd No., Lewiston, ID 83501; Olive Auto Parts, 501 Third, Kamiah, ID 83536.

MC 35227 (Sub-6-1TA), filed February 21, 1980. Applicant: EDSON EXPRESS, INC., P.O. Box 887, Longmont, Colorado 80501. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colorado 80209. *Common carrier; regular routes: General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Ft. Collins, CO and Worland, WY, serving intermediate points located between Shoshoni and Worland, WY, over the following described routes: (1) From Ft. Collins over CO Hwy 14 to junction U.S. Hwy 87 and Interstate 25, then over U.S. Hwy 87 and Interstate 25 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Worland, and return over the same route; and (2) From Ft. Collins over U.S. Hwy 287 to junction Interstate 80 (near Laramie, WY), then over Interstate 80 to junction WY Hwy 789 (near Rawlins, WY), then over WY Hwy 789 to Worland, and return over the same route, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Their are 101 supporting shippers. Their statements may be examined at the office listed below.

MC 124230 (Sub-6-1TA), filed February 20, 1980. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David Driggers of Jones, Meiklejohn, Kehl & Lyons, Suite 1600 Lincoln, 1660 Lincoln Street, Denver, CO 80264. *Ores and ore concentrates, in bulk* between points in AZ, CO, CA, ID, MT, NM, NV, OR, TX, OK, UT, WA, WY, AR, and SD for 180 days. An underlying ETA seeks 90 days authority. The application is supported by the following shippers: ASARCO, Inc., 405 Montgomery Street, San Francisco, CA 94104 and Union Carbide Corporation, 1 California Street, San Francisco, CA 94111.

MC 146001 (Sub-6-1TA), filed February 20, 1980. Applicant: BOB MARGOSIAN d.b.a. BOB MARGOSIAN TRUCKING, P.O. Box 395, Dinuba, CA 93618. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Frozen foodstuffs,* from Turlock, CA, to points in Arizona, for 180 days. Supporting shipper: Banquet Food Corporation, 107 South Kilroy Avenue, Turlock, CA 95380.

MC 147330 (Sub-6-2TA), filed February 20, 1980. Applicant: SUNCO TRUCKING CO., P.O. Box 443, Farmington, NM 87401. Representative: Robert G. Shepherd, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004. (1) *Machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products; and (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up of pipe, from points and places in San Juan, Los Alamos, Sandoval, Rio Arriba, McKinley, Santa Fe and Bernalillo Counties, New Mexico; Dolores Montezuma, LaPlata, and Archuleta Counties, Colorado, to points and places in the States of AZ, UT, CO, and WY and from points and places in the States of AZ, UT, CO, and WY, and to points and places in San Juan, Los Alamos, Sandoval, Rio Arriba,

McKinley, Santa Fe, and Bernalillo Counties, New Mexico; Dolores, Montezuma, LaPlata, and Archuleta Counties Colorado, for 180 days. There are seven supporting shippers.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-6544 Filed 2-29-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment in United States v. Emerson Electric Co., et al. and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Illinois at Chicago in *United States* v. *Emerson Electric Co. and Skil Corporation,* Civil No. 79 C 1144. The Complaint in this case alleged that Emerson Electric Co., headquartered in St. Louis, Missouri, would violate Section 7 of the Clayton Act by acquiring Skil Corporation of Chicago, Illinois, a manufacturer of portable electric tools. The proposed Consent Judgment would prohibit Emerson Electric Co. from acquiring any other manufacturer of portable electric tools or gasoline chain saws for 10 years without the consent of the plaintiff or the Court. It would further require Emerson to divest the assets of its Ridge Tool Co. subsidiary, which are related to the design and development of a line of portable electric tools, to Allegretti and Company, a California-based manufacturer of electric motors. The proposed Judgment also would require Skil Corporation to provide technical and marketing assistance to National Union Electric Corporation, the purchaser of its gasoline chain saw business.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John E. Sarbaugh, Chief, Midwest Office, Antitrust Division, Department of Justice, 2634 Everett M. Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604 (telephone: 312-353-7538).

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Northern District of Illinois, Eastern Division

United States of America, Plaintiff, v. *Emerson Electric Co. and Skil Corporation,* Defendants.

Civil Action No. 79-C-1144.

Filed: February 20, 1980.

Entered:

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to the plaintiff and defendants in this or any other proceeding.

Dated: February 20, 1980.

For the Plaintiff:
Sanford M. Litvack, *Special Assistant to the Attorney General;* Mark Leddy, John E. Sarbaugh, *Attorneys, Department of Justice;* John L. Burley, James J. Kubik, Steven M. Kowal, William T. Clabault, Edward J. Smith, *Attorneys, Department of Justice, Rm. 2634 Everett M. Dirksen Bldg., Chicago, Illinois 60604. (312) 353-7538.*

For the Defendants:
Emerson Electric Co., Arthur F. Golden, *Davis, Polk & Wardwell, 1015 15th Street, NW., Washington, D.C. 20005.*
Skil Corporation, Edward L. Foote, *Winston & Strawn, Suite 5000, 1 First National Plaza, Chicago, Illinois 60603.*

U.S. District Court, Northern District of Illinois, Eastern Division

United States of America, Plaintiff, against *Emerson Electric Co. and Skil Corporation,* Defendants.

Filed: February 20, 1980.

Entered:

Final Judgment

Plaintiff, the United States of America, having filed its Complaint herein on March 22, 1979, and defendants Emerson Electric Co. and Skil Corporation, having appeared, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of law or fact and without this Final Judgment constituting any evidence or an admission by any party with respect to any such issue,

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of law or fact herein, and upon consent of the parties hereto, it is hereby,

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and the parties consenting hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 7 of the Clayton Act, as amended, (15 U.S.C. 18).

II

As used in this Final Judgment, the term:

(A) "Person" shall mean any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Portable Electric Tool" shall mean a portable hand held tool powered by an electric motor, such as circular saws, drills, sanders, polishers, grinders, reciprocating saws, jig saws, routers, planers, rotary hammers, and screwdrivers. For purposes of this Final Judgment, Portable Electric Tools shall include, and be limited to, the products contained in Standard Industrial Classification Codes 3546101, 3546103, 3546104, 3546105, 3546107, 3546109, 3546112, 3546115, 3546116, 3546117, 3546118, 3546119, 3546121, 3546122, 3546123, 3546125, 3546126, 3546127, 3546128, 3546129, 3546133, 3546134, and 3546135 of the 1977 Census of Manufacturing Numerical List of Manufactured Products (Oct. 1978).

(C) "Gasoline Powered Chain Saw" shall mean a portable hand held chain saw powered by a gasoline engine.

(D) "Ridge Portable Electric Tool Assets" shall mean the physical assets (such as tools, dies, jigs, component parts and inventory) acquired for, and design and development drawings and other documents relating to, the design, development, production, sale or marketing of Portable Electric Tools by or for Ridge Tool Company (a subsidiary of Emerson Electric Co.) pursuant to the Ridge Tool Company's Portable Electric Tool internal development program, and the trademark "Ritco."

(E) "United States" shall mean the United States of America, the District of Columbia, any territory, insular possession or other place under the jurisdiction of the United States of America.

(F) "Emerson Electric Co." shall mean Emerson Electric Co. and its divisions, subsidiaries and affiliated companies.

(G) "Manufacturer" shall mean any person who manufactures or assembles Portable Electric Tools or Gasoline Powered Chain Saws for sale in the United States, and any non-manufacturing sales subsidiary or division thereof which is engaged in the sale of Portable Electric Tools or Gasoline Powered Chain Saws in the United States.

III

The provisions of this Final Judgment applicable to any defendant shall also apply to each of its directors, officers, agents, employees, subsidiaries, successors and

assigns and to all Persons in active concert or participation with any of them who receive notice of this Final Judgment by personal service or otherwise.

IV

(A) Defendant Emerson Electric Co. shall transfer the Ridge Portable Electric Tool Assets to Allegretti & Company in accordance with the terms of the agreement dated October 29, 1979 between Emerson Electric Co. and Allegretti & Company. The contract of sale entered into pursuant to this Final Judgment shall require Allegretti & Company to file with this court an affidavit to the effect that it intends to use the Ridge Portable Electric Tool Assets to manufacture and sell Protable Electric Tools in the United States.

(B) Defendant Skil Corporation shall give up the nonexclusive license to United States Patent No. 4,121,339 granted to it by the agreement between Skil Corporation and National Union Electric Corporation dated January 12, 1979, and, for a period of three years from the date of this Final Judgment: (1) Shall provide service through the Skil-owned United States service facilities, on reasonable commercial terms, for all chain saws manufactured for sale in the United States or sold in the United States by Electrolux AB or any of its subsidiaries; (2) shall extend the present right of National Union Electric Corporation to use the Skil name in connection with its advertising of chain saws; and (3) shall make available to National Union Electric Corporation, on reasonable commercial terms, technical assistance and marketing advice by Skil Corporation personnel with respect to the production and marketing of Gasoline Powered Chain Saws in the United States.

V

Defendant Emerson Electric Co. is enjoined and restrained from acquiring within the United States, directly or indirectly, for a period of ten (10) years from the date of entry of this Final Judgment, any of the business or assets of (other than products, inventory, equipment, licenses or services acquired in the ordinary course of business), or more than one (1) percent of the equity interest in, any Manufacturer of Portable Electric Tools or Gasoline Powered Chain Saws without either (1) the prior written consent of the plaintiff, or (2) if such consent is not given within thirty (30) days after receipt by plaintiff of a written request therefor and a submission of facts with respect to such proposed acquisition, the prior approval of this Court. This injunction shall not be construed to prohibit either defendant from acquiring any business or assets of any such Manufacturer where the acquired portion of such business or assets was neither operated nor otherwise employed within either of said Manufacturer's five most recently completed fiscal years in manufacturing for sale in the United States, or selling in the United States, Portable Electric Tools or Gasoline Powered Chain Saws.

VI

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Any duly authorized representative or representatives of the Department of Justice shall, upon written request by the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during the office hours of each defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of each defendant and without restraints or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such matters.

(B) No information or documents obtained by the means provided in Section VI hereof shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VII

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, or for the punishment of the violation of any of the provisions contained herein.

VIII

Entry of this Final Judgment is in the public interest.

Dated: _____

U.S. District Judge.

In the U.S. District Court for the Northern District of Illinois, Eastern Division

United States of America, Plaintiff, against *Emerson Electric Co. and Skil Corporation*, Defendants.

State of Missouri, County of St. Louis [SS].
No. 79 C 1144

Affidavit

Joseph B. Allegretti, being duly sworn, says:

1. I am the President of Allegretti & Company, whose principal place of business is located at 9200 Mason Avenue, Chatsworth, California. I submit this affidavit in accordance with the requirements of Article IV(A) of the Final Judgment in the above matter and Paragraph 5.1(d) of the agreement between Allegretti & Company and Emerson Electric Co. dated October 29, 1979. That agreement accurately sets forth the terms and conditions of the purchase by Allegretti & Company of the Ridge Portable Electric Tool Assets (as that term is defined in Article II(P) of the Final Judgment).

2. Allegretti & Company has negotiated with Emerson on an arm's length basis for the purchase of the Ridge Portable Electric Tool Assets and intends to use those Assets to manufacture and sell portable electric tools in the United States. Allegretti & Company intends to commence the manufacture and sale of portable electric tools as soon as practicable once the transfer of the Ridge Portable Electric Tool Assets to Allegretti & Company by Emerson, and the proposed Final Judgment, are approved by the Court and become effective.

Joseph B. Allegretti.

Subscribed and sworn to before me this 29th day of October, 1979.

Julia L. Stiene, Notary Public.

U.S. District Court, Northern District of Illinois, Eastern Division

United States of America, Plaintiff, V. *Emerson Electric Co. and Skil Corporation*, Defendants.

Civil Action No. 79 C 1144.

Filed: February 20, 1980.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. Sec. 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature of the Proceedings

On March 22, 1979, the United States filed a five count civil antitrust complaint alleging that the proposed acquisition by Emerson Electric Co. (Emerson) of the capital stock of Skil Corporation (Skil) would violate Section 7 of the Clayton Act. Counts I, II, and III of the complaint alleged, respectively, that the proposed acquisition would eliminate Emerson as a significant potential competitor in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use; that concentration in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use may be substantially increased; and that competition generally in the manufacture and sale of portable electric tools, portable electric tools for industrial use, and portable electric tools for consumer use may be substantially lessened.

As defined in the proposed Final Judgment, the term "portable electric tool" means a portable, hand-held tool powered by an electric motor such as circular saws, drills, sanders, polishers, grinders, reciprocating saws, jig saws, routers, planers, rotary hammers, and screwdrivers.

Counts IV and V of the complaint alleged, respectively, that the proposed acquisition would eliminate competition between Emerson and Skil in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use; that competition generally in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use may be substantially lessened; and that concentration in the manufacture and sale of gasoline chain saws and gasoline chain saws for occasional use would be significantly increased.

The complaint sought relief from the violations alleged in the form of a temporary restraining order and a preliminary injunction enjoining the defendants and all persons acting on their behalf from taking action to consummate the proposed acquisition, the effect of which would be to consolidate the business of Skil with Emerson. The complaint also sought to prevent this result by a permanent injunction against the defendants.

On March 22, 1979, a hearing was held on the United States' request for a temporary restraining order. The order was denied. The Court did order that the assets of Skil be kept separate from those of Emerson to enable defendants to comply with any future divestiture order of the Court should the United States prevail in the case. The acquisition was consummated on March 23, 1979.

II. Description of Practices Involved in the Alleged Violation

In the years preceding the acquisition, Skil engaged in the manufacture and sale of portable electric tools for industrial and consumer use as well as accessories used with such tools. These products were sold throughout the United States. In 1977, Skil had sales of portable electric tools of approximately $67 million, had a 13 percent share of the national market, and ranked third among firms manufacturing and selling portable electric tools. Total sales of portable electric tools in the United States in 1977 amounted to $525 million. The market for the manufacture and sale of portable electric tools in the United States is concentrated with the two largest firms having approximately 47 percent and the four largest firms having approximately 72 percent of total dollar sales in 1977.

Prior to its acquisition by Emerson, Skil also manufactured and sold gasoline chain saws in the United States. In 1977, Skil had approximately $10.4 million in gasoline chain saw sales, comprising a 4 percent share of the national market. Emerson, through its Beaird-Poulan division, ranked third among firms manufacturing and selling gasoline chain saws with sales in excess of $36.4 million comprising over 14 percent of the national market. Total sales of gasoline chain saws in the United States in 1977 were approximately $260 million. The market for the manufacture and sale of gasoline chain saws in the United States is concentrated with the two largest firms having approximately 37 percent and the four largest firms having over 62 percent of total dollar sales in 1977. Pursuant to the agreement of purchase and sale between Emerson and Skil, Skil divested assets connected with its chain saw business to National Union Electric Corporation (National), but the United States alleged in its complaint that Skil retained sufficient technical and production capabilities to resume the manufacture and sale of gasoline chain saws.

Emerson is engaged in the business of designing, manufacturing, and selling a wide range of electric motors and products powered by electric motors, professional and hardware tools and equipment including gasoline chain saws, and numerous other electrical-electronic products for commercial, industrial and consumer uses. Emerson's fiscal 1978 sales were approximately $2.17 billion. Although Emerson was not manufacturing portable electric tools at the time it acquired Skil, it was selling a limited line of such tools through its Ridge Tool Co. subsidiary and was in the process of designing and developing a full line of portable electric tools of its own manufacture for sale in the United States market. In addition, Emerson manufactures and sells a wide variety of hand tools, stationary power tools, shop vacuum cleaners, hobbyist tools and accessories, and monofilament line lawn trimmers which are complementary to and may be marketed through some of the same distribution channels and advertised in the same media as Skil's portable electric tool line.

In the plaintiff's view of the case, Emerson is one of only a few companies with the financial resources, technical expertise, existing channels of distribution, and incentive to expand its product line into the manufacture and sale of portable electric tools and was perceived as a likely entrant by other persons and firms in this industry. Therefore, the suit was filed to prevent the elimination of Emerson as a potential competitor in the manufacture and sale of portable electric tools and to prevent the lessening of actual competition in the manufacture and sale of gasoline chain saws in the United States.

III. Explanation of the Proposed Final Judgment

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment by the Court is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

A. Divestiture

The terms of the Final Judgment require Emerson to divest the assets of its Ridge Tool Co. connected with the design and development of a portable electric tool program to Allegretti & Company in accordance with the terms of a contract dated October 29, 1979. This contract, attached to this Competitive Impact Statement, requires Allegretti to file an affidavit with the Court stating its intention to use the acquired assets to manufacture and sell portable electric tools in the United States.

The Final Judgment further enjoins Emerson for a period of 10 years from acquiring the business or assets of, or more than a one percent equity interest in, any manufacturer of portable electric tools or gasoline chain saws without the prior consent of the plaintiff or approval of the Court.

The Judgment also requires Skil to divest the non-exclusive patent license which it retained under its agreement of sale with National.

B. Required Conduct

Skil is required for a period of three years from the date of the Final Judgment: (1) To provide service in Skil-owned facilities for chain saws sold by National; (2) to extend from its current one year term, National's right to use the Skil name in connection with National's chain saw advertising; and (3) to make available technical assistance and marketing advice regarding the production or marketing of gasoline chain saws in the United States.

Also under the proposed Judgment, the Department of Justice is given access for ten years to the files and records of the defendants Emerson and Skil in order to examine such records for compliance or noncompliance with the Judgment. The Department is also granted access to interview employees of both defendants to determine whether defendants are complying with the Judgment.

C. Effect of the Proposed Final Judgment on Competition

The relief encompassed in the proposed Final Judgment will restore the competition eliminated as a result of the acquisition. The proposed Final Judgment requires Emerson to divest all business assets connected with its portable electric tool program to Allegretti & Company, a purchaser with the capability to manufacture and sell portable electric tools in the United States in competition with Skil and other leading portable electric tool manufacturers. Allegreti, a manufacturer of electric motors, shop vacuum cleaners, and monofilament line lawn trimmers, has the plastic molding capability, electric motor technology, and channels of distribution necessary to be a successful entrant into this market. Allegretti has approximately $50 million in annual sales and is in sound financial condition.

The conduct required of Skil in the proposed Final Judgment is designed to assist National to operate as a viable, competitive substitute for Skil in the manufacture and sale of gasoline chain saws.

Accordingly, it is the opinion of the Department of Justice that the proposed Final Judgment is adequate to remedy the anticompetitive effects of the acquisition. Disposition of the matter without further litigation is desirable in view of the fact that the proposed Final Judgment constitutes relief that is consistent with the objectives of this lawsuit, i.e., to maintain potential competition in the portable electric tool market and to restore the competition in the gasoline chain saw market eliminated by the acquisition.

IV Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. Sec. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal Court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. Sec. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against these defendants.

V. Procedures Available for the Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to John E. Sarbaugh, Chief, Chicago Field Office, Antitrust Division, United States Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. These comments and the government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed final Judgment at any time prior to its entry should the government determine that some modification of the Final Judgment is necessary. Section VII of the proposed Judgment provides that the Court retains jurisdiction over this action and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification, interpretation or enforcement.

VI Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief for the violation alleged in the complaint.

VII Other Materials

Aside from the contract of sale between Emerson and Allegretti attached to this Competitive Impact Statement and dated October 29, 1979, there are no materials or documents which the government considered determinative in formulating this proposed Final Judgment.

John E. Sarbaugh, *Attorney, Department of Justice.*

John L. Burley, James J. Kubik, Steven M. Kowal, William T. Clabault, *Attorneys, Department of Justice, Room 2634, Everett M. Dirksen Bldg., Chicago, Illinois 60604, (312) 353-7537.*

Agreement

This Agreement made this 29th day of October, 1979, between Emerson Electric Co., a Missouri corporation, hereinafter referred to as "Emerson," and Allegretti & Company, a California corporation, located at 9200 Mason Avenue, Chatsworth, California, hereinafter referred to as "Allegretti,"

Whereas, Emerson through its wholly owned subsidiary Ridge Tool Company ("Ridge"), has undertaken a program to design and manufacture portable electric tools, and

Whereas, Emerson desires to sell the drawings, technical information and assets regarding the manufacture of such portable electric tools, and

Whereas, Allegretti represents that it desires to enter the portable electric tool business, and has the capability and interest to continue to develop the Ridge portable electric tool program and sell portable electric tools in the United States and elsewhere, and

Whereas, Allegretti desires to purchase the assets related to the Ridge portable electric tool progrm to enable Allegretti to manufacture and sell portable electric tools in the United States and elsewhere.

In consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

Article I

Purchase and Sale

1.1 Subject to the terms and conditions hereof on the closing date as defined in Section 6.1 hereof, Emerson agrees to cause Ridge to transfer to Allegretti and Allegretti agrees to purchase from Ridge the following described assets of Ridge (hereinafter sometimes referred to as "Assets"):

(a) Ridge's tooling, jigs, dies, fixtures, gauges and patterns, molds, test fixtures utilized by Ridge and related to Ridge's portable electric tool program as more specifically set forth in Schedule 1(a) hereof;

(b) Ridge's portable tool program's blueprints, drawings, designs, bills of material, engineering change notices, inspection reports, purchasing and manufacturing specifications, and other related technical manufacturing information, including inventions, patents and patent applications or marketing information as more specifically set forth on Schedule 1(b);

(c) All machinery and equipment utilized in Ridge's portable electric tool program as more specifically set forth on Schedule 1(c) hereof;

(d) All inventories related to Ridge's portable electric tool program, including all raw materials, all finished goods, and all work in process (hereinafter referred to as "Inventory") as more specifically set forth on Schedule 1(d) hereof;

(e) All vendors and purchase quotes and orders and other commitments related to Ridge's portable electric tool program as more specifically set forth on Schedule 1(e) hereof.

1.2 Allegretti shall not purchase and Emerson shall retain any and all cash, accounts receivable, prepaid insurance, prepaid expenses, payroll advances, real estate, income tax refunds, trademarks, tradenames and copyrights, patents not related to the Ridge portable electric tool program, if any, except Allegretti may, prior to closing, elect to include Ridge's trademark "Ritco".

1.3 In consideration thereof, Allegretti will purchase all inventory and Assets utilized by Ridge in the portable electric tool progrm at Ridge's book value. The purchase price of the above Assets will be paid as follows: $500,000.00 to be paid at closing of the contract to purchase the Assets and the balance eighteen (18) months after closing. Allegretti shall, in addition, pay the following:

a. The sum of $250,000 when gross annual sales of the product line described on Schedule 1.3 hereof reach $5,000,000.

b. The sum of $250,000 when gross annual sales reach $10,000,000.

c. The sum of $250,000 when gross annual sales reach $15,000,000.

d. A final sum of $250,000 when gross annual sales reach $20,000,000.

The purchase price shall be allocated to the assets as indicated on Schedule 1.3.

1.4 In consideration of this Agreement, on the closing date Emerson shall transfer and deliver to Allegretti all business records pertaining to the Ridge portable electric tool program, including all of the assets described in Article I and as scheduled hereunder.

1.5 Emerson will pack and ship to Allegretti all of the assets to be transferred hereunder within a reasonable time of the closing date and as requested by Allegretti, but no later than one year following closing. Emerson will pack and ship to Allegretti all of the inventory to be transferred hereunder within a reasonable time of the closing date and as requested by Allegretti but no later than one year following closing. To be included with the shipment will be an invoice setting forth the inventory shipped and the value of each item. Upon receipt of such shipment, Allegretti will inspect the inventory and review the purchase price and pay for the inventory within thirty days of receipt of the inventory. Prior to closing Emerson and Allegretti will agree upon the book value of the assets to be purchased by Allegretti.

1.6 Emerson will provide to Allegretti information regarding vendors and suppliers of parts to manufacture tools which have been designed under Ridge's portable electric tool program. Emerson will cooperate and assist Allegretti in assigning existing purchase orders from Emerson to Allegretti or in obtaining purchase orders between Allegretti and such vendors or suppliers. In the event parts are not available from other vendors or suppliers, Emerson will supply Allegretti such parts on terms and conditions to be agreed upon prior to closing. Such assistance shall only be given to Allegretti on those products in Ridge's portable electric tool program that have been designated as Group 1 products on the attached Schedule 1.6. No cancellation charges will apply.

1.7 In order to facilitate Allegretti's entry into the portable electric tool market, Emerson will, for a period of two (2) years following the closing date, make available to Allegretti for purchase, at Allegretti's request, private brand portable electric tools currently

sold through Emerson's Skil Corporation subsidiary on terms and conditions mutually agreed to by the parties. The period that such tools will be made so available to Allegretti may be extended for such additional periods that may be acceptable to the parties.

Article II

Technical Assistance

2.1 Emerson will provide technical assistance to Allegretti in the design or manufacture of tools in the Ridge portable tool program being purchased herein. After signing of this Agreement, Emerson will permit a reasonable number of Allegretti's representatives at Allegretti's expense to visit Ridge's plant to study the Ridge portable electric tool program. For a period of thirty-six (36) months following closing of this transaction, Emerson agrees to furnish technical personnel to the extent that Emerson has the same available who are familiar with the Ridge portable electric tool program to aid Allegretti in the development, manufacture or sale of the Ridge portable electric tools. Such technical personnel shall be made available upon request of Allegretti and shall provide the services needed at Emerson's business location. Such technical personnel will be made available at no cost to Allegretti during the first year following closing of this transaction, up to a maximum of 120 man days. If 120 man days have been utilized during the first year following closing, Allegretti will reimburse Emerson for the salary, fringe benefits and expenses of any technical personnel furnished to Allegretti at Emersons' business location. In the event Allegretti requests that Ridge technical personnel be made available at Allegretti's business location or elsewhere, Allegretti agrees to reimburse Emerson for the reasonable business expenses of such employee during the time the employee is performing such services for Allegretti. After the first year following closing of this transaction, such technical personnel will be made available to the extent that they are available at a cost of $250.00 per day, plus the expenses of such employee. This paragraph shall not require Emerson or Ridge to keep any person in its employ.

Emerson agrees that it will identify the current employees who are working on the Ridge portable electric tool program and agrees that Allegretti may offer employment to such employees on terms and conditions mutually agreed upon by Allegretti and employee.

2.2 Emerson represents that it has manufactured and tested prototypes, but not marketed any of the tools being sold pursuant to this Agreement. Emerson makes no representation as to the potential profitability of the manufacture or sale of such tools. Emerson will allow Allegretti to have access to any market research related to the Ridge portable electric tool program. In addition, Emerson will allow Allegretti to have access to Ridge's marketing and sales personnel to consult with Allegretti regarding advertising, packaging, service, and product promotional techniques for such products. To the extent they are available, such personnel shall be made available to Allegretti for a period of thirty-six (36) months following closing of this transaction. Such personnel shall be provided at Ridge's business locations during reasonable business hours. Such marketing personnel will be made available at no charge to Allegretti during the first three months following closing of this transaction up to a maximum of 120 man days. If 120 man days are utilized during the first three months following closing, Allegretti will reimburse Emerson for the salary, fringe benefits and expenses of any marketing personnel furnished to Allegretti. In the event Allegretti requests that Ridge marketing personnel be made available at Allegretti's business location or elsewhere, Allegretti agrees to reimburse Emerson for the reasonable business expenses of such employee during the time the employee is performing such services for Allegretti. After the first three months following closing of this transaction, such marketing personnel will be available to Allegretti (to the extent that they are available) at a cost of $250.00 per day plus the expenses of such employee. This paragraph shall not require Emerson or any of its subsidiaries to keep any person in its employ.

2.3 Emerson makes no representations regarding the designs or technical information being sold herein. Emerson has not made a complete patent search to determine if the portable electric tools infringe any applicable patent, but to the best of the knowledge of Ridge and Emerson officers, the portable electric tools do not infringe any known United States Patent. Emerson or Ridge will assist Allegretti in applying for product certifications under applicable governmental or industry product standards.

2.4 Emerson represents that it is transferring to Allegretti all of the tangible and intangible personal property utilized by Ridge or Emerson related to the Ridge portable electric tool program. Emerson makes no representation that this will be all of the property or technical information necessary for the conduct of the portable electric tool business. Allegretti acknowledges that Allegretti may have to secure additional sources of supply or purchase machines, tools, patterns, or test fixtures to manufacture the portable electric tools. In addition, Allegretti acknowledges that it may have to continue to design and develop information regarding the manufacture and sale of portable electric tools. Emerson agrees to assist Allegretti in locating vendors' and suppliers' parts to enable Allegretti to promptly distribute and sell portable electric tools.

Article III

Representations and Warranties

3.1 Emerson represents and warrants that:

(a) Emerson is a corporation duly organized pursuant to the laws of Missouri and is in good standing thereunder;

(b) This Agreement, the execution and delivery hereof by Emerson and the sale and transfer of assets to Allegretti, and the performance by Emerson of its obligations and undertakings hereunder do not violate the provisions of any other agreement or instrument by which Emerson may be bound and has been properly authorized by all necessary corporate action;

(c) Emerson has and will have at time of delivery of the assets purchased by Allegretti hereunder, good and marketable title to the assets free and clear of all liens, claims, mortgages, charges or other encumbrances.

(d) The book value of the assets purchased hereunder shall be determined in accordance with generally accepted accounting principles applied on a basis consistent with prior periods and all obsolete or unusable items of inventory shall be written down to realizable scrap value. All items of inventory as to which a value is assigned shall be usable in the ongoing operations of the business purchased hereunder.

(e) All machinery and equipment is in good order, condition and repair.

(f) Emerson will indemnify and hold Allegretti free and harmless from any claim which may be made by any creditor of Emerson or Ridge against any of the assets purchased by Allegretti hereunder.

3.2 Allegretti represents and warrants that:

(a) Allegretti is a corporation fully organized pursuant to the laws of California and is in good standing thereunder;

(b) This Agreement, the execution and delivery hereof by Allegretti and the consummation of the transaction contemplated hereby has been properly authorized by all necessary corporate action;

(c) It is Allegretti's intention to design, manufacture, and sell portable electric tools in the United States and elsewhere.

Article IV

Miscellaneous

4.1 It is understood and agreed that Emerson is not selling any right, title or interest in or to any trademark, service mark or tradename of Emerson or its subsidiaries, except that Emerson and Ridge will agree to transfer to Allegretti, upon request of Allegretti prior to closing, the trademark "Ritco."

4.2 Allegretti agrees to hold Emerson harmless from all product liability claims arising from injuries or damages sustained from products manufactured and sold by Allegretti pursuant to the Ridge portable electric tool program provided, however, that this provision shall not apply to any product liability claim arising from negligence of Emerson or its wholly owned subsidiaries in the repair or modification of such product.

4.3 Emerson will provide for a period of thirty-six (36) months following closing warranty or service repair on products manufactured or sold by Allegretti under the Ridge portable electric tool program at Emerson's cost plus five percent. Such agreement may be extended from time to time on terms and conditions mutually agreed upon.

4.4 It is understood that no outside parties have participated in respect to the negotiations of this transaction on behalf of Allegretti and that Allegretti will indemnify and hold Emerson harmless in respect to any claim for any promotion fee or commission with respect to the transaction contemplated. It is understood that no outside parties have participated in respect to the negotiations of

this transaction on behalf of Emerson and Emerson will indemnify and hold Allegretti harmless in respect to any claim for any promotion fee or commission with respect to the transaction contemplated.

Article V

Conditions Precedent To Closing

5.1 All obligations of Emerson under this Agreement are subject to the fulfillment on or before closing date of each of the following conditions, subject, however, to the right of Emerson to waive any one or more of such conditions:

(a) That the Board of Directors of Emerson has approved this contract and the sale and transfer of the assets contemplated by this Agreement;

(b) The prior approval of the Antitrust Division of the United States Department of Justice of this Agreement and of Allegretti as an acceptable purchaser of the Assets;

(c) The prior approval and execution by Emerson, the Antitrust Division and the United States District Court for the Northern District of Illinois of a Final Judgment (from which no further appeal may be taken), in form and substance satisfactory to Emerson, that would terminate as to all parties with prejudice so that it cannot be renewed, the litigation between Emerson, Skil and the United States (which bears the caption *United States of America* vs. *Emerson Electric Co. and Skil Corporation,* (79C 1144) N.D. I1) now pending in the aforesaid court;

(d) Allegretti will file with the United States District Court for the Northern District of Illinois an affidavit in the form satisfactory to Allegretti, the Antitrust Division, United States Department of Justice, and the Court to the effect that Allegretti intends to use the Ridge portable electric tool assests to manufacture and sell portable electric tools in the United States.

(e) That Allegretti shall have performed and complied with all of its obligations under this Agreement which are to be performed or complied with prior to the closing date.

(f) Allegretti shall have delivered to Emerson a certificate signed by its President and Secretary certifying that the Agreement has been duly authorized and delivered on behalf of Allegretti and is binding and enforceable against it in accordance with its terms.

Article VI

Closing

6.1 The closing of the transaction contemplated hereby shall take place at the offices of Emerson Electric Co., 8100 W. Florissant Avenue, St. Louis, Missouri, at 10:00 a.m. on the 15th day of November, 1979, (the "closing date") provided that all conditions precedent to the closing shall have been satisfied. In the event that the conditions precedent have not been satisfied by the closing date, the closing date shall be as soon thereafter as all such conditions shall have been satisfied.

6.2 On the closing date, Emerson shall execute and deliver to Allegretti appropriate instruments of assignment, transfer and conveyance of the assets in such form as Emerson or its counsel shall determine and Allegretti shall deliver to Emerson the purchase price pursuant hereto and such instruments and assumptions as may be appropriate hereunder in such form as Emerson or its counsel shall reasonably request.

Article VII

Entire Agreement, Instruction, Government Law, Counterparts

7.1 This Agreement, including the schedules delivered pursuant hereto, constitute the entire agreement of the parties and may not be changed, terminated, or discharged orally. The Table of Contents and Headings appearing in this Agreement have been inserted solely for the benefit of the parties and shall be of no force or effect in the construction of the provisions of this Agreement. This Agreement shall be construed under the laws of the State of Missouri, shall be binding upon and inure to the benefit of the parties hereof, their respective successors and assigns. This Agreement may be executed in several counterparts, such executed counterparts shall be considered an original of this Agreement.

7.2 Neither this Agreement nor any right hereunder may be assigned by any of the parties hereto provided that nothing herein shall prohibit Emerson from assigning the assets and liabilities hereto to a subsidiary of Emerson.

7.3 Notices hereunder shall be effective if deposited in the United States mail, postage prepaid, certified, return receipt requested as follows:

To: Emerson Electric Co., 8100 W. Florissant Avenue, St. Louis, Missouri 63136:
Attention: Senior Vice President, Law.
To: Allegretti & Company, 9200 Mason Avenue, Chatsworth, California 91311:
Attention: President.

Any party may change the address to which notices are to be addressed by giving the other notice in the manner herein set forth.

7.4 In any action brought to enforce any provision hereof, the prevailing party shall be entitled to recover costs of suit and reasonable attorney's fees.

In witness whereof, the parties hereto have caused this Agreement to be executed on and as of the 29th day of October, 1979.

Emerson Electric Co.

Attest: _____

By: _____

Allegretti & Company

Attest: _____

By: Joseph B. Allegretti.

Allegretti & Company,
9200 Mason Avenue, Chatsworth, Calif.,

October 31, 1979.

Re: United States v. Emerson Electric Co., Civ. No. 79 C 1144

John L. Burley, Esq.,
Assistant Chief, Midwest Office,
United States Department of Justice,
Antitrust Division,
219 South Dearborn Street,
Chicago, Illinois 60604.

Dear Mr. Burley: At the request of Emerson Electric Co., I am writing to provide you with background information and a description of the business of Allegretti & Company to assist you in evaluating my Company as a prospective purchaser of the Ridge Portable Electric Tool assets.

Prior to its incorporation as Allegretti & Company on April 20, 1960, the business was conducted as a partnership between my father, Albert J. Allegretti, and my uncle, Joseph A. Allegretti. The original partnership was formed in 1934, but it was not until 1947 that it became engaged in what can be described as its present business. In that year, the firm entered the lawn and garden business with the production of a hand edger.

In 1954 the firm produced its first electric product, also a lawn edger. We began making our own electric motors in 1958 and continue to do so today. Although our original production of motors was limited to universal motors for our own requirements, we have since expanded our motor operations to include the production of permanent magnet motors and in addition to our own motor requirements, the supply of electric motors (of both types) to other firms.

For example, between 1965 and 1971 we supplied motors to Roper Corporation for use in electric lawnmowers which Roper manufactured for Sears, Roebuck & Company. We have supplied motors and finished product on a private label basis (since 1973) for Weed Eater, Inc. (which was acquired by Emerson Electric Co. in 1977). We presently supply motors for use in food processors manufactured by the Hamilton Beach Division of Scovill; for use in vacuum cleaners, and are in the process of developing motors for use in garbage disposal units. To facilitate the continued expansion of our motor business, we increased our physical capabilities for the production of electric motors by purchasing three facilities from a subsidiary of Nabisco in 1978.

The electric motors produced by Allegretti are either usable or readily adaptable for use in portable electric tools and it is our intention to produce at Allegretti motors for use in the products that will be manfactured as a result of the purchase by Allegretti of the Ridge Portable Electric Tool program.

In 1974 Allegretti purchased an injection molding company (which we have since greatly expanded), which provides us with plastic molding capability of the type used in the portable electric tool business. It is our intention to use our internal plastic molding capabilities in the portable electric tool business.

In addition to having manufacturing experience and capabilities necessary to complete the Ridge Portable Electric Tool program, I believe that Allegretti is financially capable of undertaking the venture. I have reviewed the Ridge Portable Electric Tool program and am aware of the remaining commitments (both financial and otherwise) that are necessary to its completion.

Although I understand your interest in determining our financial capabilities, Allegretti is a closely held, family-owned corporation. The financial statements of the Company are not publicly available and are highly confidential. Therefore, I am extremely reluctant to supply you with a copy of our

financial statements. However, we do make our financial statements available to Dun & Bradstreet and that organization can (with the exception of certain financial items which we regard as highly sensitive and which should not be relevant here) supply you with accurate financial information about Allegretti.

In addition to the financial information obtainable through Dun & Bradstreet, the following financial information with regard to our sales and assets may be helpful to you. Sales of Allegretti have progressed as follows since 1971:

Near and Approximate Sales [1]

1971	$2,000,000
1972	4,000,000
1973	5,000,000
1974	7,000,000
1975	10,000,000
1976	22,000,000
1977	45,000,000
1978	53,000,000
1979	50,000,000

The current book value of the company's assets are approximately $21,000,000–22,000,000. (Replacement value is, of course, much higher). Allegretti presently has no outstanding debt and has a cash position of approximately $6,000,000.

In terms of physical facilities, Allegretti is located in Chatsworth, California (our principal operations), El Paso, Texas and Juarez, Mexico. We have recently purchased substantial additional land in El Paso, Texas in order to be able to expand that facility. Allegretti employs between 1,200 and 1,400 people.

With respect to engineering and product design and development capabilities, Allegretti employs approximately 12 engineers, some of whom have electric motor capability. Some of these people have had prior experience with companies such as Black and Decker and Sunbeam and, in my opinion, provide Allegretti with an effective engineering department that is well suited to work on portable electric tools. I believe that Allegretti has the design and development capabilities to continue the Ridge Portable Electric Tool program.

Allegretti sells its products to a variety of customers and through various channels of distribution. Sears, Roebuck & Company is a very large customer of Allegretti and has been since 1948. Over the years Allegretti has sold hand edgers, electric edgers, electric leaf blowers and electric string trimmers to Sears. The products sold to Sears are private label products which are re-sold by Sears under its own brand names.

Allegretti also sells lawn and garden products under its own "Paramount" brand to other large retailers, including K Mart, Treasury (a division of J. C. Penney), and Home Center Hardware subsidiaries of W. R. Grace. In addition, Allegretti sells its products to lawn and garden distributors throughout the country including such major distributor cooperatives as Liberty and Allied, and major retailer cooperatives such as Ace and Cotter (True Value).

[1]The Company operates on a September 30th fiscal year basis.

The Allegretti sales effort is spearheaded by five sales executives who travel across the country for the Company and who work with approximately 50 independent sales representatives who sell Allegretti's products throughout the world.

Although Allegretti presently sells products under its Paramount brand, it may not be our intention to sell portable electric tools under that brand. (Neither do we have any present interest in using the Ritco trademark.) We believe that Allegretti enjoys an excellent reputation for the motors and products it produces and that Allegretti is known by its company name as a producer of such products. Therefore, it is our proposed intention to market the portable electric tools, which we believe can produce substantial revenues for Allegretti.

I hope the foregoing information is helpful and is sufficient for your needs. If you have any further questions, please feel free to contact me.

Very truly yours,

Joseph B. Allegretti,

President.

[FR Doc. 80-6516 Filed 2-29-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Attorney General

[AAG/A Order No. 46-80]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), a notice to establish a new system of records to be maintained by the United States National Central Bureau (USNCB) of the Department of Justice was published in the Notice Section of the Federal Register, Vol. 44, page 58993, on October 12, 1979. On the same day a rule proposing exemption of the system was published in the Proposed Rules Section of the Federal Register on page 58921. The system was entitled Criminal Investigative Records System (JUSTICE/DAG-007).

In response to the October 12 notice, the Office of Management and Budget (OMB) requested clarification of the system. As a result of the OMB inquiry, another review of the system was initiated. Consequently, the Routine Use Section of the notice has been revised to include additional routine uses; the "Storage" section has been clarified; and the "Retention and disposal" section has been revised. Further, certain categories of information not in the October notice have been added. They are "Safeguards," "Access prucedures," "Contesting record procedures," and "Record source categories". Upon reflection, the USNCB has also decided to omit reference to the INTERPOL organization (International Criminal Police Organization) to avoid possible confusion as to the actual role of the Department of Justice USNCB. The USNCB is not synonymous with INTERPOL; rather it serves as the United States liaison with the INTERPOL General Secretariat and works in cooperation with the National Central Bureaus of other member countries.

Inquiries or comments must be submitted in writing to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, Washington, D.C. 20530. All comments must be received on or before April 2, 1980. If no other comments are received by April 2, 1980, the routine uses will be adopted as set forth below. No oral hearings are contemplated. The amended system is reprinted below in its entirety.

Dated: February 20, 1980.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Justice/DAG-007

SYSTEM NAME:

The United States National Central Bureau (USNCB) (Department of Justice) Criminal Investigative Records System.

SYSTEM LOCATION:

Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific wanted/missing persons; specific deceased persons in connection with death notices; individuals who may be associated with certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in a crime; victims of criminal violations in the United States or abroad; and USNCB personnel involved in litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning fugitives, wanted persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes name, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, and details and circumstances surrounding the actual or suspected violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 263a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event a record(s) in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use to the appropriate law enforcement and criminal justice agencies whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record may be disclosed to federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; to federal agencies in response to their request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. A record may be disclosed to appropriate parties engaged in litigation or in preparation of possible litigation, e.g., to potential witnesses for the purpose of securing their testimony when necessary before courts, magistrates or administrative tribunals; to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings; to foreign governments in accordance with formal or informal international agreements; to local, state, federal and foreign agents; to the Treasury Enforcement Communications System (TECS) (Treasury/CS 00.244); to the International Criminal Police Organization (INTERPOL) General Secretariat and National Central Bureaus in member countries; to employees and officials of financial and commercial business firms and private individuals where such release is considered reasonably necessary to obtain information to further investigative efforts or to apprehend criminal offenders; to other third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; and to translators of foreign languages as necessary. In addition, information from this system is accessed by USNCB employees who have a need for the records in the performance of their duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in file folders and on magnetic disks at the United States National Central Bureau, and certain limited data, i.e., that which concerns fugitives and wanted persons, is stored in the Treasury Enforcement Communications System (TECS), TREASURY/CS 00.244, a system published by the U.S. Department of the Treasury.

RETRIEVABILITY:

Information is retrieved primarily by name, file name, system identification number, personal identification number, and by weapon or motor vehicle number or by other identifying data.

SAFEGUARDS:

Information maintained on magnetic disks is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only those individuals specifically authorized and assigned an identification code by the system manager will have access to the computer. Identification codes will be assigned only to those USNCB employees who require access to the information to perform their official duties. In addition, access to the information must be accomplished through a terminal which is located in the USNCB office that is occupied during the day and locked at night. Information in file folders is stored in file cabinets in the same secured area.

RETENTION AND DISPOSAL:

Upon inactivity for ten years, the case file is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Chief, United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. To enable USNCB personnel to determine whether the system contains a record relating to him or her, the requester must submit a written request identifying the record system, identifying the category and type of records sought, and providing the individual's full name and at least two items of secondary information (date of birth, social security number, employee identification number, or similar identifying information).

ACCESS PROCEDURES:

Although the Attorney General has exempted the system from the access, contest and amendment provisions of the Privacy Act, some records may be available under the Freedom of Information Act. Inquiries should be addressed to the official designated under "Notification procedure" above. The letter and envelope should be clearly marked "Freedom of Information Request" and a return address provided for transmitting any information to the requester.

CONTESTING RECORD PROCEDURES:

See "Access procedures" above.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal, state, local, and foreign law enforcement agencies (including investigative reports from a system of records published by Department of the Treasury entitled Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244); other non-Department of Justice investigative agencies; client agencies of the Department of Justice; statements of witnesses and parties; and the work product of the staff of the United States National Central Bureau working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has proposed exemption of this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and (k)(5). An exemption rule was promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and published in the Proposed Rules Section of the Federal Register on October 12, 1979. A final rule will be published 30 days from the publication date of this notice.

[FR Doc. 80-6600 Filed 2-29-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 79-22]

Ivan Czornyj, M.D., Parma, Ohio; Hearing

Notice is hereby given that on October 23, 1979, the Drug Enforcement Administration, Department of Justice, issued to Ivan Czornyj, M.D., Parma, Ohio, an Order To Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration, executed August 22, 1979, to possess, dispense and distribute Schedule II–V controlled substances under Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, March 13, 1980, in Courtroom No. 5, Cuyahoga County Courthouse, 1 Lakeside Avenue, Cleveland, Ohio.

Dated: February 26, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-6537 Filed 2-29-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Behavioral and Neural Sciences Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences.
Date: March 20–21, 1980.
Time: 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Part Open—Closed 3/20—9 a.m. to 5 p.m. Open 3/21—9 a.m. to 12 noon. Closed 3/21 1 p.m. to 5 p.m.
Contact person: Dr. Richard Louttit, Division of Behavioral and Neural Sciences, National Science Foundation, Washington, D.C., 20550, Telephone (202) 634–4230.
Summary minutes: May be obtained from the Contact Person, Dr. Richard T. Louttit, at the above stated address.
Purpose of committee: To provide advice and recommendations concerning NSF support for research in behavioral and neural sciences.
Agenda: Open—March 21, 9 a.m. to 12 noon. General discussion of the current status and future plans of the Division and analysis of long range planning and budget material prepared by the Division for FS 1980 and 1981.
Closed—March 20, 9 a.m. to 5 p.m. and March 21, 1:00 p.m. to 5 p.m. Review and comparison of declined proposals (and supporting documentation) with successful awards in BNS, including review of peer review materials and other privileged material.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt material—and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

B. Winkler,

Committee Management Coordinator.

Feburary 26, 1980.

[FR Doc. 80-6482 Filed 2-29-80; 8:45 am]

BILLING CODE 7555-01-M

Federal Advisory Committees; Review

The National Science Foundation is conducting its annual comprehensive review of advisory committees and is soliciting input from all interested persons for this evaluation.

In the letter of February 25, 1977, to the heads of Executive Departments and Establishments, the President expressed his concern about the number and usefulness of Federal advisory committees, and directed that the comprehensive review be conducted on a zero-based concept and be predicted on the principle that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate. He further stated that each agency should provide for open and public participation in its review process to the maximum extent possible.

If you have any comments on any advisory committee listed below, please direct them to the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550, no later than March 20, 1980. These comments will be forwarded to the appropriate officials for consideration in the review process.

The Committees being reviewed are:
Advisory Committee for Information Science and Technology
Advisory Committee for Minority Programs in Science Education
Advisory Committee for Science Education
Advisory Committee on Special Research Equipment (2-year and 4-year colleges)
Alan T. Waterman Award Committee
DOE/NSF Nuclear Science Advisory Committee
President's Committee on the National Medal of Science

M. Rebecca Winkler,

Committee Management Coordinator.

February 27, 1980.

[FR Doc. 80-6481 Filed 2-29-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to include operability and surveillance requirements for the gas turbines, cable spreading room halon system, additional fire detectors and the auxiliary feedwater pumps; to limit control rod misalignment; and modifies the license to require a secondary water chemistry monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with repect to this action, see (1) the application for amendment dated January 10, 1979, July 27, 1979, October 1, 1979 and December 31, 1979, (2) Amendment No. 60 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th of January 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 80-6510 Filed 2-29-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Order To Show Cause

I

Dairyland Power Cooperative (DPC or licensee), La Crosse, Wisconsin, is the holder of Provisional Operating License No. DPR-45, issued on August 28, 1973, which authorizes the operation of the La Crosse Boiling Water Reactor (LACBWR), located in Vernon County, Wisconsin. LACBWR is a direct-cycle, variable-flow forced circulation boiling water reactor, which is designed to operate at a rated power not in excess of 165 megawatts thermal.

II

In June 1978 the NRC staff initiated a review of the geology and seismology of the LACBWR site in connection which the Systematic Evaluation Program (SEP). The SEP is a program under which the safety margins for eleven of the older operating plants are being reassessed. A brief review of the information on the LACBWR docket raised some questions regarding the stability of the underlying soils during earthquakes. The NRC contracted the U.S. Army Engineer Waterways Experiment Station (WES) to perform an analysis of the potential for liquefaction of the soils under conditions of seismic stress.

WES made appropriately conservative assumptions to analyze the then existing soils data. Since the SSE has yet to be established under the SEP, the WES analysis treated the seismic acceleration parametrically. The WES analysis concluded in December 1978 that the soils below the LACBWR site could strain badly for an earthquake producing a ground surface level peak acceleration of 0.12g,[1] and excessive strains and liquefaction would occur for ground surface level peak accelerations of 0.2g or greater.

The NRC staff's assessment of the WES analysis indicated that the then available soils data was inadequate to accurately estimate the liquefaction resistance, principally because it was based on questionable Standard Penetration Tests (SPT) and remolded soil samples, rather than undisturbed samples. In addition, the staff concluded that the assumptions regarding seismicity at the site were conservative. For these reasons they concluded at the time that continued operation of the LACBWR plant for a reasonable length of time would not present a hazard to the health and safety of the public. However, to attain a long term resolution of the liquefaction issue, the staff concluded that a thorough investigation should be undertaken, including an effort to obtain soil samples that more accurately represented the true soil characteristics.

In January and February 1979, we met with the licensee in Bethesda, Maryland, to express the staff's concerns. The licensee agreed to initiate a soils properties investigation program, subject to NRC approval. The program included additional test borings at the site to obtain undisturbed samples, SPT, laboratory testing of samples (cyclic triaxial tests), and various analyses techniques to determine the resistance of the soils to liquefaction. The proposed program was received in March and was approved, with some modifications, by NRC on April 30, 1979.

The preliminary results from the soils properties investigation program were provided to the NRC in late August 1979, and the final report entitled "Liquefaction Potential at La Crosse Boiling Water Reactor (LACBWR) Site Near Genoa, Vernon County, Wisconsin," dated September 28, 1979, was presented to the NRC staff in a meeting with DPC on October 17, 1979. This report concluded "that a threshold liquefaction resistance level for the LACBWR site corresponds to an SSE producing an acceleration between 0.18g and 0.20g at the ground surface." However, based on a review of the soils data presented in this report, the NRC staff has concluded that if sustained strong ground motion with peak accelerations of .12g or higher occurs (normally associated with a magnitude 5 or greater earthquake within 10 km of the site) liquefaction can occur at the LACBWR site down to a depth of 40 feet. Below .09g, the staff has concluded that there is little potential for liquefaction. These conclusions are based on our comparison of this site with non-nuclear sites where liquefaction has occurred and on the use of laboratory strength data.

[1] DPC has designated this value as the SSE in their October 9, 1974 Full Term License Application.

The September 28, 1979 report submitted by DPC used results of undrained cyclic triaxial tests and dynamic stresses computed using the computer code SHAKE to assess the liquefaction potential at the site. The NRC staff and its consultant, WES, believe that the soil strength curves determined in the laboratory and used in this analysis are not adequately conservative for the following reasons. Our experience is that loose cohesionless material densifies when sampled, and this densification may be as great as 2 to 3 lb/cu ft. Data provided in the DPC report indicates that the specimens further densified an additional 2 to 3 lb/cu ft from the frozen condifion to the thawed and consolidated condition in the laboratory. This indicates a total increase in density that could be as great as 4 to 6 lb/cu ft from the in situ condition, and we estimate that the probable total increase in density is 3 to 4 lb/cu ft. This is a substantial change in density considering that the minimum density reported was approximately 97 lb/cu ft and the maximum density approximately 114 lb/cu ft. This increase in density has not been taken into account in the results presented in the September 28 report. It is the NRC staff's conclusion that correction for this increase in density would substantially reduce the DPC reported factors of safety against liquefaction.

In addition, if the SPT N values presented in this report are corrected to an overburden pressure of 1 ton/sq ft and then compared with the empirical correlations between N values and the liquefaction occurrence at Niigata, Japan, liquefaction can occur in foundation soils below the water table down to a depth of about 35 ft. Low factors of safety are indicated from 35 ft down to a depth of about 40 ft.

Therefore, based on our judgment concerning the density and strength data, on the analysis submitted by DPC, and on comparisons of the SPT data with liquefaction and SPT correlations, we have concluded that the soils at the LACBWR site below the water table down to a depth of approximately 40 ft could be subject to liquefaction if the licensee designated safe shutdown earthquake with a peak acceleration of 0.12g occurs. The staff has not yet established the SSE value but expects to do so by the spring of 1980 consistent with the setting of such a value for other SEP plants.

Based on our consideration of the data submitted by DPC, we have concluded that a potentially hazardous condition may exist at the LACBWR site with respect to continued operation of the plant for an extended period of time.

For this reason, the NRC staff has made an estimate of the probability of exceeding a range of peak accelerations at the LACBWR site in order to make an estimate of the hazard associated with the liquefaction potential. In doing so, we utilized all readily available estimates of earthquake probability that included the site region. These were estimates taken from Milne and Davenport (1969), Algermissen and Perkins (1976), the Applied Technology Council (1978), the Haven Site Preliminary Safety Analysis Report (1978), and preliminary results from the Systematic Evaluation Program (SEP) probabilistic study of the LACBWR site.

Based on our review of the probabilistic studies listed above, the return period for .12g would be at least 1,000 years. This peak acceleration (.12g) is equivalent to Intensity VII when utilizing the relationship of Trifunac and Brady (1975). The return period for .08g would be at least 400 years. These values are based upon the minimum return period calcuated in the above studies. While these values should not be interpreted as absolute minimums, the actual return period could be an order of magnitude larger.

Based on these estimates of return periods, we have concluded that the general level of seismic hazard at the LACBWR site is sufficiently low that operation of the plant for the next twelve months would not endanger the health and safety of the public.

In our meeting of November 2, 1979, DPC committed to consider various options to modify the site soils to preclude the occurrence of liquefaction in the event an earthquake with a peak acceleration of 0.12g occurs. By letter dated November 29, 1979, DPC submitted a conceptual design of a dewatering system for the LACBWR site to preclude liquefaction. Our preliminary review of the proposed dewatering system indicates that it is a feasible solution to the liquefaction issue at LACBWR. However, since the final design has not yet been developed nor submitted to the NRC, we are unable to determine conclusively that the proposed system will preclude liquefaction for earthquakes with peak accelerations of 0.12g or less. In addition, we are unable to conclude at this time that installation of such a system would not create the potential for a related but somewhat different concern at the site, e.g., settlement or the creation of cavities that might effect safety-related structures.

For the reasons set forth in Section II above, and pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50: *It is hereby ordered,* That the licensee show cause, in the manner hereinafter provided, why the licensee should not:

1. As soon as possible, but no later than May 27, 1980, submit a detailed design proposal for a site dewatering system to preclude the occurrence of liquefaction in the event of an earthquake with peak ground surface accelerations of 0.12g or less. The proposal shall, as a minimum, contain:

a. Detailed engineering drawings and a system description.

b. The results of any testying and analyses needed to establish the efficacy of such a system.

c. Proposed Technical Specifications pertaining to the availability and surveillance of such a system.

d. Information that demonstrates that no adverse effects on existing structures, systems and components important to safety will result from the installation and operation of the proposed system.

2. As soon as possible after NRC approval of the dewatering system identified above, but no later than February 25, 1981, make such system operational, or place the LACBWR in a safe cold shutdown condition.

IV

For further details regarding this action, persons should see the staff's letter dated October 30, 1979, to the licensee and enclosures 1 and 2 thereto, a Dames and Moore Report dated September 28, 1979, "Liquefaction Potential at La Crosse Boiling Water Reactor (LACBWR) Site, near Genoa, Vernon County, Wisconsin," and the licensees letter to NRC dated November 29, 1979. These documents and other pertinent information relative to this issue are available for public inspection at the Commission's Public Document Room, 1717 H Street; N.W., Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

V

The licensee may file a written answer to this Order under oath or affirmation within twenty-five (25) days of the date of this Order. Upon failure of the licensee to file an answer within the time specified, the Director of Nuclear Reactor Regulation will, without further notice, issue an Order suspending License No. DPR-45. The licensee or any other person whose interest may be affected by this Order may request a hearing within twenty-five (25) days of the date of the Order. Any request for a hearing shall be addressed to the

Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. If a hearing is requested by a person whose interest may be affected by this Order, the Commission will issue an order designating the time and place of any such hearing. In the event a hearing is requested, the issues to be considered at such hearing shall be:

(1) Whether the licensee should submit a detailed design proposal for a site dewatering system; and

(2) Whether the licensee shoud make operational such a dewatering system as soon as possible after NRC approval of the system, but no later than February 25, 1981, or place the LACBWR in a safe could shutdown condition.

Dated at Bethesda, Maryland this 25th day of February 1980.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-6511 Filed 2-29-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 80, 80, and 77 to Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by adding a new Technical Specification 4.17, Steam Generator Tubing Surveillance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 30, 1976, as revised June 21, 1977, January 23, 1979, October 16, 1979, and February 6, 1980; (2) Amendments Nos. 80, 80, and 77 to Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively; and (3) the Commission's related Safety Evaluation issued January 18, 1980, as supplemented February 22, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of February 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 80-6512 Filed 2-29-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 81, 81, and 78 to Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised the Station's common Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to support the operation of Oconee Unit No. 1 at full rated power during Cycle 6. The amendments also revise the Technical Specifications for Units Nos. 1, 2, and 3 in regard to engineered safety features.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 6, 1979, as supplemented August 22, 1979, December 31, 1979, and January 28, 1980, (2) Amendments Nos. 81, 81, and 78 to Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of February 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-6513 Filed 2-29-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

February 27, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and

recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Animal and Plant Health Inspection Service
7 CFR—Part 319—Foreign Quarantine Notices
PPQ 587, 546 and 368
On occasion
Importers of plants and plant products, 5,110 responses; 851 hours
Charles A. Ellett, 395-5080.

Food and Nutrition Service
Program and Budget Summary Statement—Food Stamp Program
FNS 366
Annually
State agencies, 54 responses; 2,160 hours
Charles A. Ellett, 395-5080.

Food and Nutrition Service
Reconciliation Report—Food Stamp Program
FNS 46
Monthly
All repor. points that recon. transa. atp's to master file, 5,364 responses; 37,548 hours
Charles A. Ellett, 395-5080.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245-6511

New Forms

Food and Drug Administration
Radiation Incidents Registry Reporting Program
Electronic Product Radiation
FDA 3166
On occasion
Attending physician of person claiming injury, 350 responses; 30 hours
Richard Eisinger, 395-3214.

Public Health Service
Linkage Grant Questionnaires
Single time
Health centers and mental health centers, 171 responses; 85 hours
Richard Eisinger, 395-3214.

Social Security Administration
Symposium and Survey Plan on Alternate Methods of Social Security Financing
SSA-286
Single time
Workers, recent retirees, and their spouses
Barbara F. Young, 395-6132.

Reinstatements

Social Security Administration
Certification by school official
SSA-1371 and 1371-FC
On occasion
School officials with access to student's records, 100,000 responses; 16,667 hours
Barbara F. Young, 395-6132.

Social Security Administration
Student's statement regarding school attendance outside the U.S.
SSA-1372-F4 and 1372-C2-FC
On occasion
Applicants for child's or surviving child's benefits, 330,000 responses; 33,000 hours
Barbara F. Young, 395-6132.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Reinstatements

Drug Enforcement Administration
Controlled substances import/export declaration
DEA 236
On occasion
Drug firms that import/export controlled substances, 1,350 respones; 338 hours
Andrew R. Uscher, 395-4814.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523-6341

Revisions

Bureau of Labor Statistics
Survey of union wage rates and hours in grocery stores
BLS 1150.8
Other (see SF-83)
Union officials in cities of 100,000 inhabitants or more, 160 responses; 80 hours
Office of Federal Statistical Policy and Standard, 673-7974.

NATIONAL ENDOWMENT FOR THE ARTS

Agency Clearance Officer—Paul G. Zarbock—634-6160

New Forms

A study of racial minority participation in programs of local, State and regional publicly funded arts agencies
Single time
Publicly funded State, regional and local arts, 77 responses; 616 hours
Laverne V. Collins, 395-3214.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632-7737

Revisions

Statement of physical ability for light duty work
SF-177
On occasion
Applicants for Federal employment, 150,000 responses; 25,000 hours
John M. Allen, 395-3785.

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653-6890

New Forms

Bank loan officer questionnaire—venture capital
Questionnaire
Single time
Description not furnished by agency, 150 responses; 150 hours
John M. Allen, 395-3785.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Questionnaire for importers of firearms and parts [1]
Single time
Importers of firearms and parts, 48 responses; 288 hours
Phillip T. Balazs, 395-4814.

Questionnaire for producers of firearms and parts [2]
Single time
Producers of firearms and parts, 39 responses; 585 hours
Phillip T. Balazs, 395-4814.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

Request for approval of school attendance
21-674 and 674C
On occasion
Dependents of veterans, 150,000 responses; 37,500 hours

[1] This report will be acted on before normal 10-day period. The clearance of this questionnaire on an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning Firearms and Parts within the statutory time limits.

[2] This report will be acted on before normal 10-day period. The clearance of this questionnaire on an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning Producers of Firearms and Parts within the statutory time limits.

Laverne V. Collins, 395-3214.

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80-6585 Filed 2-29-80; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

February 27, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for the first Executive Committee meeting for the President's Commission for a National Agenda for the Eighties, scheduled to be held from 9 a.m. to 3 p.m., March 7, 1980, in the offices of the Commission, located 744 Jackson Place, N.W., Washington, D.C.

The purpose of this meeting, which is a special call meeting by the Chairman, is to discuss the implementation program plan for the Commission.

Because of limited space, those interested in attending are asked to call the Commission's office beforehand. Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Wegman or Mr. Claude Barfield, President's Commission for a National Agenda for the Eighties, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-6626 Filed 2-29-80; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Visits to Certain Facilities

February 27, 1980.

Notice is hereby given that Chairman Fritschler and members of the advisory staff will visit the following facilities for the purpose of acquiring general knowledge of operations.

Date, City and Facility

February 28, 1980, St. Cloud, MN; Fingerhut Corp.
February 29, 1980, Chicago, IL; General Post Office
February 29, 1980, Forest Park IL; and Bulk Mail Center

Notice is also given that Commissioner DuPont will visit the following facilities for the purpose of acquiring general knowledge of operations.

Date, City and Facility

February 29, 1980, Orlando, FL; Florida Fruit Shippers Assn.
February 29, 1980, Orlando, FL; Post Office

Reports of these visits will be on file in the Commission Docket Room.

David F. Harris,

Secretary.

[FR Doc. 80-6527 Filed 2-29-80; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21453; 70-6361]

Appalachian Power Co. et al.; Proposed Cash Capital Contribution by Holding Company to Subsidiary

February 25, 1980.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Michigan Power Company, Post Office Box 367, Three Rivers, Michigan 49093; Ohio Power Company, 301 Cleveland Avenue, SW., Canton, Ohio 44701; Wheeling Electric Company, 51 Sixteenth St., Wheeling, West Virginia 26003; American Electric Power Company, Inc., 2 Broadway, New York, New York 10004; (70-6361).

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Indiana and Michigan Electric Company ("I&M"), Kentucky Power Company ("KPCO"), Kingsport Power Company ("Kingsport"), Michigan Power Company ("Michigan"), Ohio Power Company ("Ohio Power") and Wheeling Electric Company ("Wheeling Electric"), AEP's subsidiary public utility companies, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12 of the Act as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By prior order in this proceeding (HCAR No. 21352, December 21, 1979), AEP was authorized to issue and sell, from time to time, prior to January 1, 1981, short-term notes and commercial paper, to banks, and to a dealer in commercial paper respectively, in an amount of up to $165,000,000, such notes maturing no later than June 30, 1981. AEP was also authorized to make cash capital contributions prior to January 1, 1981 to certain of its subsidiaries. By supplemental order in this proceeding (HCAR No. 21442, February 20, 1980), AEP was authorized to issue and sell such short-term notes to 11 banks with lines of credit in an aggregate amount of $229,000,000, subject to the previously ordered limit on outstanding notes.

By post-effective amendment AEP requests authority to make cash capital contributions to Michigan from time to time prior to January 1, 1981 in an aggregate amount of $10,000,000. It is stated that the investment by AEP in Michigan will be an addition to the general funds of Michigan to enable Michigan to declare a dividend in a like amount to its parent, AEP, concurrent with the cash capital contribution.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Michigan Public Service Commission has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 21, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6503 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21452; 70-6163]

Central and South West Corp. et al.; Proposed Increases in Short-Term Borrowing Authorizations and Extensions Thereof

February 22, 1980.

In the matter of Central and South West Corporation, 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas utilities Company, P.O. Box 841, Abilene, Texas 79604; Central and South West Services, Inc., 2700 One Main Place, Dallas, Texas 75250, (70-6163).

Notice is hereby given that Central and South West Corproation ("CSW"), a registered holding company, and five of its subsidiaries, Central Power and Light Company ("CPL"), Southwestern Electric Power Company ("SWEPCO"), Public Service Company of Oklahoma ("PSO"), West Texas Utilities Company ("WTU"), and Central and South West Services, Inc. ("CSWS") have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By orders dated June 30, 1978, October 27, 1978, March 29, 1979, May 9, 1979, June 14, 1979, July 19, 1979, July 31, 1979, October 24, 1979 and February 5, 1980 in this matter (HCAR Nos. 20608, 20749, 20978, 21041, 21097, 21150, 21166, 21269 and 21421), CSW and its subsidiaries were authorized to incur short-term borrowings through December 31, 1980 in a maximum aggregate collective amount of $200,000,000 and in the following individual amounts: CSW, $200,000,000; CPL, $100,000,000; SWEPCO, $75,000,000; PSO, $90,000,000; WTU, $15,000,000; and CSWS, $2,000,000. The short-term borrowings are pursuant to a CSW System money pool under which CSW and its subsidiaries coordinate their short-term borrowings and make borrowings outside the money pool from banks through the issuance of commercial paper. The money pool consists of funds from the following sources: (i) Surplus funds of CSW; (ii) surplus funds of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper.

CSW administers the money pool by matching up, to the extent possible, short-term cash surplus and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, CSW is authorized to issue and sell its commercial paper to commercial paper dealers and to certain approved financial institutions, and to borrow from banks.

By post-effective amendment, CSW and its subsidiaries propose (i) to extend the short-term borrowing authorization to December 31, 1981, (ii) to increase the aggregate borrowing limitations for CSW and CSWS and (iii) to increase a master note borrowing limitation.

Applicants-declarants request that the short-term debt limits of CSW be increased to $250,000,000. Such funds would be added to the money pool and loaned to subsidiaries for the interim financing of their capital programs through 1981 and to provide for other temporary working capital needs. It further is requested that the short-term debt limit of CSWS be increased to $4,000,000 due to the expanded activities and corresponding increase in expenditure levels of CSWS. The aggregate of all CSW system short-term borrowings at any one time outstanding will not exceed the $250,000,000 limitation for CSW.

With regard to the proposed change in a master limitation, CSW currently has authority to borrow under such an agreement with Mercantile National Bank at Dallas ("Mercantile") for up to $5,000,000. Interest on CSW's master notes is at a rate equal to the highest annual interest rate on 30 to 179 day commercial paper placed by a major finance company as reported in *The Wall Street Journal*. Mercantile has indicated a willingness to increase this agreement to $8,000,000. Due to the advantageous cost of this type of borrowing, CSW requests authority to increase its maximum master note borrowing level with Mercantile to $8,000,000.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $150. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 17, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rule and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6504 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16606; SR-CBOE-80-2]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

February 25, 1980.

On January 29, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which adopts a set of rules that would conform its rules on arbitration [1] to the Uniform Code of Arbitration ("Code") [2] which was drafted by the Securities Industry Conference on Arbitration ("SICA") [3] and which provides arbitration procedures for the settlement of disputes arising between customers and broker-dealers.

The proposal deletes or amends the existing CBOE arbitration rules and adopts the entire Code as new CBOE Rules 18.3–18.33. The proposal incorporates the simplified arbitration procedures that were drafted by the SICA and adopted by the CBOE on June 23, 1978,[4] regarding small claims not exceeding $2,500.[5] Additionally, the new arbitration rules will apply to claims between CBOE members as well as to claims against members raised by customers and non-members.[6]

The purpose of this proposal is to provide investors with a simple and inexpensive procedure for resolution of their controversies with broker-dealers who are members of the CBOE. Further, the proposal anticipates that the Code will be adopted by other self-regulatory organizations thereby providing a uniform system of arbitration throughout the securities industry.[7]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 16578 (Feb. 14, 1980), and by publication in the Federal Register 45 FR 11638 (February 21, 1980). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to securities exchanges and, in particular, the requirements of Section 6(b)(5) of the Act that the rules of an exchange be designed to promote just and equitable principles of trade.[8]

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6505 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

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[1] For the CBOE's former arbitration rules, *see* CBOE Rules 18.1–18.12. CBOE Manual (CCH) §§ 2512–2522, at pages 2231–2237.

[2] The Code was published on December 28, 1979, as the *Second Report of the Securities Industry Conference on Arbitration to the Securities and Exchange Commission.*

[3] The SICA was organized on April 5, 1977, pursuant to the Commission's stated position that there was a need to implement a nationwide investor dispute resolution system. *See* Securities Exchange Act Release No. 12528 (June 9, 1976), 9 SEC Docket 833 (June 23, 1976), 41 FR 23803 (June 11, 1976); Securities Exchange Act Release No. 13470 (April 26, 1977), 12 SEC Docket 186 (May 10, 1977), 42 FR 23892, (May 11, 1977). The SICA members consist of: the American Stock Exchange, Inc.; the Boston Stock Exchange, Incorporated; the Chicago Board Options Exchange, Incorporated; the Cincinnati Stock Exchange; the Midwest Stock Exchange, Incorporated; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange, Incorporated; the Philadelphia Stock Exchange, Inc., as well as the Securities Industry Association and three public representatives.

[4] Securities Exchange Act Release No. 15390, 16 SEC Docket 425 (December 26, 1978), 43 FR 60681 (December 28, 1978).

[5] *See* new CBOE Rule 18.4.

[6] *See* new CBOE Rule 18.2.

[7] The Code has already been adopted by the New York Stock Exchange, Inc. (Securities Exchange Act Release No. 16290 (November 30, 1979), 18 SEC Docket 1197 (December 18, 1979)); the Cincinnati Stock Exchange (Securities Exchange Act Release No. 16472 (January 22, 1980), 45 FR 2722 (January 14, 1980)); the American Stock Exchange, Inc. (Securities Exchange Act Release No. 16502 (January 16, 1980), 19 SEC Docket 326 (Jan. 29, 1980), 45 FR 5863 (January 24, 1980)); and the Midwest Stock Exchange, Incorporated ((Securities Exchange Act Release No. 16503 (January 16, 1980), 19 SEC Docket 327 (January 29, 1980), 45 FR 5860 (January 24, 1980)).

[8] The Commission emphasizes, however, that nowithstanding the proposed rule change, arbitration clauses contained in customers' agreements that purport to bind customers to arbitrate all future disputes raising claims under the federal securities laws cannot be enforced against those customers who choose to obtain a judicial determination of such claims. *See* Securities Exchange Act Release No. 15964 (July 2, 1979), 17 SEC Docket 1167 (July 17, 1979), 44 FR 40462 (July 10, 1979).

[Release No. 34-16608; File No. SR-CSE-80-2]

Cincinnati Stock Exchange; Self-Regulation Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 4, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Chapter IX of the Rules of the Exchange is proposed to be changed by the addition of new Section 31 which will apply the Uniform Code of Arbitration ("Code") to disputes between members of the Exchange. The Exchange has already adopted the Code with respect to disputes by investors against members. The purpose of the proposed rule change is to provide members of the Exchange, as well as investors, with a simple and inexpensive procedure for resolution of controversies with broker-dealers. Further, the proposed rule change is consistent with rule changes requested by other self-regulatory organizations in order to provide a uniform system of arbitration throughout the securities industry.

The basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act in that the proposed rule change is designed to provide Exchange members with a simple and inexpensive procedure for resolution of their controversies and thereby to promote just and equitable principles of trade and to protect investors and the public interest.

No comments on the proposed rule change have been solicited or received.

The Exchange believes that the proposed rule change imposes no burden on competition.

On or before April 7, 1980, or within such longer period (i) as the Commission may designate up to ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 24, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 25, 1980.

[FR Doc. 80-6509 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10248]

Itel Corp.; Application and Opportunity for Hearing

February 26, 1980.

Notice is hereby given that Itel Corporation (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under certain existing indentures of Itel Finance International N.V., a wholly-owned subsidiary of the Applicant, which are not qualified under the Act, and under an indenture of the Applicant which is qualified is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as successor trustee under the Applicant's indenture.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict or interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that: 1. The applicant had outstanding as of December 31, 1979 $75,000,000 of its 10-½% Sinking Fund Debentures Due 1998 (the "Itel Debentures") issued under an indenture, dated as of December 1, 1978 (the "Itel Indenture"), between the Applicant and The Northern Trust Company ("Northern Trust") which was qualified under the Act. The Itel Debentures were registered under the Securities Act of 1933 (File No. 2-63018). The Itel Indenture contains the provisions required by Section 310(b)(1) of the Act.

2. Itel International Finance N.V., a wholly-owned subsidiary of the Applicant, is a corporation organized and existing under the laws of the Netherlands Antilles ("Finance"). It had outstanding, as of December 31, 1979, (a) $21,853,000 of its 9¾% Guaranteed Debentures due 1988 issued under an indenture of Finance, dated as of April 1, 1978, (b) $27,962,000 of its 9¾% Guaranteed Debentures due 1990 issued under an indenture of Finance, dated as of October 1, 1978, and (c) $36,692,000 of its 10½% Guaranteed Debentures due 1993 issued under an indenture of Finance, dated as of May 1, 1979 (collectively, the "Finance Indentures"). Chemical Bank was the original indenture trustee under the Finance Indentures and the Finance Indentures were not required to be and were not qualified under the Act. The debentures issued under the Finance Indentures (the "Finance Debentures") were not required to be and were not registered under the Securities Act of 1933 and are unconditionally guaranteed by the Applicant.

3. On June 22, 1979 Schroder was appointed successor trustee under each of the Finance Indentures.

4. The Applicant appointed Schroder to act as successor trustee under the Itel Indenture as of the close of business on December 26, 1979. The Instrument of Resignation, Appointment and Acceptance among the Applicant, Northern Trust and Schroder, dated as of November 7, 1979, as amended as of December 26, 1979, by which Schroder

was appointed successor under the Itel Indenture and accepted its appointment provides that, if either the Commission does not issue a finding under Section 310(b)(1)(ii) of the Act that Schroder is not disqualified from acting as successor trustee prior to March 25, 1980 or the Commission earlier issues a finding that Schroder is disqualified from acting as successor trustee, Schroder shall resign, the Applicant shall appoint Northern Trust as successor trustee and Northern Trust shall accept said appointment.

5. Finance is not in default under any of the Finance Indentures. The Applicant is in breach of certain covenants of the Itel Indenture, and Northern Trust, by letter dated December 11, 1979, issued a Notice of Default under Section 501(3) of the Itel Indenture with respect to one such covenant breach.

6. The Applicant is not the issuer of the Finance Debentures. However, the guaranties of the Applicant of the Finance Debentures may be deemed to be securities of the Applicant issued under the Finance Indentures. Thus, each of the Finance Indentures may, for purposes of Section 310(b) of the Act, be "another Indenture under which any other securities of the Applicant are outstanding * * *" with the result that there could be a conflicting interest if Schroder were to continue to serve as successor trustee under the Itel Indenture as well as under the Finance Indentures.

7. The Applicant's guaranties of the Finance Debentures are unsecured senior obligations of the Applicant and none of its guaranties is subordinate to another guaranty or the Itel Debentures, ranking *pari passu inter se*. Except for variations as to aggregate principal amounts, dates of issue, certain financial covenants, maturity and interest payment dates, interest rates, redemption prices and procedures, sinking and purchase fund provisions, the fact that the Itel Debentures are issuable in fully registered form and the Finance Debentures are issuable in bearer form with coupons attached, procedures and approvals for action by holders of the Itel and Finance Debentures, and certain covenants and provisions relating to taxation, there are no material differences among the Itel Indenture and the Finance Indentures, except that Itel is the primary and sole obligor under the Itel Indenture and the secondary obligor under the Finance Indentures.

8. In the opinion of the Applicant the provisions of the aforementioned Indentures are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the Debentures issued under such Indentures to disqualify Schroder from continuing to act as successor trustee under the Itel Indenture and the Finance Indentures.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after March 24, 1980, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than March 21, 1980, at 5:30 PM, Eastern Standard Time, in writing, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communciation or request should be addressed: Secretary Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6506 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-416]

Lee National Corp.; Application and Opportunty for Hearing

February 22, 1980.

Notice is hereby given that Lee National Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Act") for an Order granting a partial exemption to the Applicant from the full reporting requirements of Sections 13 and 15(d) of that Act.

The Applicant states in part: 1. Pursuant to a merger effected on August 3, 1978, the Applicant was merged with Surrey Associates Corp., and each outstanding share of the Applicant's common stock was converted into rights to receive cash. As a result, the Applicant has no common stock presently outstanding in the hands of the public.

2. The Applicant has presently outstanding 8% Subordinated Debentures due January 15, 1986 under Indenture dated January 1, 1966. These Debentures are held by more than 500 Debenture holders, and the Applicant's total assets exceed $1 million.

3. There is not now, nor has there been in the past, any significant trading in the Detentures or any significant public interest in the Debentures.

4. The Indenture does not now obligate the Applicant to furnish the Debenture holders with any financial statements. As a condition to the granting of the exemption, the Applicant undertakes to be subject to a continuing requirement to file with the Commission limited annual, quarterly and current reports, and to furnish Debenture holders with a copy of such annual reports. These reports will be modified in accordance with Release No. 34-16226 (the "Release"), providing for limited reporting requirements applicable to Wholly-owned subsidiaries of reporting companies with only debt Securities outstanding. In addition, the requirements relating to financial statements will be limited to audited financial statements shown on a two year comparative basis prepared in accordance with generally accepted accounting principles, but which do not need to comply with Regulation S-X. These financial statements shall contain at least as much information as the audited financial statements which the Applicant is required to, and in fact supplies to, financial institutions to which it is indebted. As a result of this undertaking, Debenture holders would gain an opportunity they do not now

possess to receive such information directly from the Applicant.

5. The Debenture holders will continue to have the benefit and protection of the Indenture, including the investor protection provisions under the Trust Indenture Act 1939.

For a more detailed statement of the information presented, all persons are referred to said application, which is on file in the offices of the Commission at 1100–L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than March 18, 1980, may submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6507 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16607; SR-NYSE-79-51]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 25, 1980.

On December 5, 1979, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which rescinds NYSE Rule 420(2), which required reporting to the NYSE of members' and allied members' unsecured non-capital borrowing [1] in excess of $20,000 and which imposed on member organizations the obligation to inform the NYSE of such borrowings.[2]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission Release (Securities Exchange Act Release No. 34–16481, January 11, 1980) and by publication in the Federal Register (45 FR 3688, January 18, 1980). No comments were received with respect to the rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-6508 Filed 2-29-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP79–10; Notice 2]

Mack Trucks, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mack Trucks, Inc. of Allentown, Pennsylvania ("Mack" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on August 30, 1979 (44 FR 50946) and an opportunity afforded for comment.

Standard No. 108 requires that motor vehicle headlamps be mounted not more than 54 inches above the road surface, measured from the center of the headlamp, on the vehicle at its curb weight. Mack determined that, on 19 of its RM series chassis produced between June 1977 and June 1979, headlamp mounting height may exceed the 54-inch limit by as much as 1.7 inches. The height increase creating the noncompliance is attributable to use of a larger tire size that raised the height of the chassis when larger brake drums were installed in order to comply with Standard No. 121, *Air Brake Systems.*

The vehicles in question are "4 x 4 snow plow-dump chassis." Mack deemed the noncompliance inconsequential because the vehicles are operated primarily during daylight hours and, when used in snow removal service, auxiliary headlamps are required due to the position, from KD Lamp Company which supported it.

The facts that only 19 vehicles are involved and that the vehicles are operated primarily during daylight hours have persuaded NHTSA that the noncompliance is limited in both scope and effect, and is therefore inconsequential as it relates to motor vehicle safety. Accordingly, the petition by Mack Trucks, Inc. is hereby granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 25, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-6359 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration
Materials Transportation Bureau

Application for New Exemption; Reopening of Comment Period

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation.

ACTION: Reopening of comment period.

DATES: Public comment on exemption application number 8262–N is hereby extended to March 17, 1980.

SUMMARY: The purpose of this notice is to reopen the comment period until March 17, 1980 thereby allowing all interested persons sufficient time to review the application along with additional information which was requested by the Materials Transportation Bureau (MTB).

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, (DOT), Washington, D.C. 20590. Comments should identify the exemption application number (8262–N)

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[1] The term "non-capital borrowings" refers to borrowings that do not involve the capital account of any NYSE member organization.

[2] Reporting of capital borrowings, pursuant to NYSE Rule 420(1), would be unaffected by this rule change.

and be submitted in five copies. The Docket Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: On September 4, 1979 (44 FR 51695), the Materials Transportation Bureau published a notice of receipt of applications for new exemptions from the Hazardous Materials Regulations, 49 CFR Parts 110-189. Included therein was an application, identified as number 8262-N, from the Battelle Memorial Institute, Richland, Washington. The applicant is seeking relief from the provisions of § 173.392(d)(1)(iv) thereby making possible a one-time-only shipment by cargo vessel of part of a pressurized water reactor steam generator internally contaminated with 120-180 curies of Group III and Group IV radionuclides at approximately 0.003 millicuries per square centimeter as a radioactive material, low specific acivity, n.o.s. This shipment would be preliminary to a full scale research and development program being directed by the Nuclear Regulatory Commission. As the application did not contain particular information on areas such as shielding, handling, and contingency plans which the MTB could evaluate in making its determination a request for additional information was made to the applicant. Since the required information is now on file a reopening of the comment period for an additional two weeks is considered to be in the public interest.

(49 U.S.C. 1806; 49 CFR 1.53(e))

Issued in Washington, D.C. on February 28, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Material Transportation Bureau.

[FR Doc. 80-6768 Filed 2-29-80; 9:02 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[No. 101-3]

Delegation of Procurement Authority to Office of Procurement and Treasury Bureaus

Dated: February 20, 1980.

By virtue of the authority vested in me as Assistant Secretary (Administration) by Treasury Department Order No. 208, Revision 4, it is ordered:

1. *The Director, Office of Procurement, Office of the Secretary,* is delegated the authority to prescribe and publish Treasury Procurement Regulations. This authority may not be redelegated.

2. *The following officials of the Department of the Treasury are delegated the authority to procure property and services* consistent with Title III of the Federal Property and Administrative Services Act of 1949 (Act), as amended (41 U.S.C. 251-260), except as precluded by Section 307 (41 U.S.C. 257) of the Act:

Director, Office of Procurement Office of the Secretary.
Director, Bureau of Alcohol, Tobacco and Firearms.
Comptroller of the Currency.
Commissioner of Customs.
Director, Bureau of Engraving and Printing.
Director, Federal Law Enforcement Training Center.
Commissioner, Bureau of Government Financial Operations.
Commissioner of Internal Revenue.
Director of the Mint.
Commissioner of the Public Debt.
National Director, U.S. Savings Bonds Division.
Director, U.S. Secret Service.

3. Each of the officials named in paragraph 2 is deemed "chief officer responsible for procurement" within the meaning of 41 USC 257(b).

4. *The authority delegated includes but is not limited to:*

a. entering into and taking all necessary actions with respect to purchases, contracts, leases, and other contractual procurement transactions;

b. making determinations and decisions with respect to procurement matters, except those determinations and decisions required by law or regulation to be made by other authority; and

c. designating persons qualified in procurement matters as Contracting Officers and representatives thereof, in accordance with requirements and procedures established in Section 1.404 of the "Treasury Procurement Regulations."

5. The authority delegated shall be exercised in accordance with the applicable limitations and requirements of the Act; the Federal Procurement Regulations, 41 CFR Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR Chap. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations including but not limited to 41 CFR Chap. 10 and Treasury Directives Manual Chapter 70-06, "Treasury Procurement Regulations."

6. To the extent permitted by the Act and this delegation, the authority delegated to the above-named officials may be redelegated by them by letter or bureau order to any subordinate officer or employee of their respective organizations who has been duly designated to act as a Contracting Officer for the United States.

This Order supersedes Department of the Treasury Order 101-3, dated July 16, 1979.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 80-6552 Filed 2-29-80; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary,

[Public Debt Series—No. 9-80]

Treasury Notes Series D-1985; Interest Rates

February 27, 1980.

The Secretary announced on February 26, 1980, that the interest rate on the notes designated Series D-1985, described in Department Circular—Public Debt Series—No. 9-80, dated February 20, 1980, will be 14⅜ percent. Interest on the notes will be payable at the rate of 14⅜ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-6566 Filed 2-29-80; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 43
Monday, March 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

[M-272, Amdt. 2; Feb. 27, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the February 28, 1980, meeting agenda.

TIME AND DATE: 9 a.m., February 28, 1980

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 8A. Comments on the effectiveness of beneficial ownership reporting requirements in the Securities Exchange Act and on suggested changes in the 5 percent reporting threshold. (OGC)

STATUS: Open (Items 1-24). Closed (Items 25-27).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 8A is being added because comments were due at the SEC on February 25, 1980. Because of the controversial nature of the issues involved and the need for careful coordination among the staff, the Board was unable to act on the draft letter by that date. Accordingly, the following Members have voted that Item 8A be added to the February 28, 1980 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-424-80 Filed 2-28-80; 8:45 am]
BILLING CODE 6320-01-M

2

[M-272, Amdt. 3, Feb. 27, 1980]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the February 28, 1980, meeting agenda.

TIME AND DATE: 9 a.m., February 28, 1980.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

19. Docket 37123, Application of Transportes Aereos Nacionales, S.A. for exemption to operate limited Fifth Freedom turnaround cargo service between Miami and Belize. (BIA)

23. Docket 37306, Application of Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) for amendment of its foreign air carrier permit to add the coterminal points Detroit and Chicago. (BIA, OGC, BALJ)

STATUS: Open (Items 1-24). Closed (Items 25-27).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 19 and 23 are being deleted because there is insufficient time remaining before the meeting for Board consideration of these items. Accordingly, the following Members have voted that Items 19 and 23 be deleted from the February 28, 1980 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-425-80 Filed 2-28-80 3:21 pm]
BILLING CODE 6320-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, February 28, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Delete the following item:

Agenda, Item No., and Subject

Television—1—*Title:* Motion for Declaratory Ruling and Petition to Refrain From Acceptance for Filing; applications for new UHF TV station on channel 17, Des Moines, Iowa. *Summary:* Applicants for new UHF TV station in Des Moines, Iowa, seek to require existing VHF station to accommodate UHF antenna on its tower. Station refuses. Applicants assert economic reasons, but do not claim site is unique. Question is whether economic reasons are sufficient to require VHF station to lease space on tower.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

[S-422-80 Filed 2-28-80; 3:21 pm]
BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, March 4, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Hearing—1—Application for Review of Review Board Decision in Silverado Canyon, California application for certificate of compliance proceeding (Docket No. 21426).

Hearing—2—Application for review of a final Review Board Decision in the Garden Grove, California, Amateur station and Operator's licensing proceeding (SS Docket No. 78-258).

Hearing—3—Application of review of a final review Board Decision in the Hattiesburg, Mississippi comparative FM radio proceeding. (Docket Nos. 19889-19891).

Broadcast—1—Preparation for a Region 2 Administrative Radio Conference on AM Broadcasting.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: February 27, 1980.

[S-423-80 Filed 2-28-80; 3:21 pm]
BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Wednesday, February 27, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits."

On motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), the Board of Directors determined that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(A)(i) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(A)(i)).

Dated: February 27, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-417-80 Filed 2-28-80; 12:48 pm]

BILLING CODE 6714-01-M

6

FEDERAL LABOR RELATIONS AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 11976, February 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Tuesday, March 4, 1980.

CHANGE IN PLACE OF MEETING: This meeting of the Authority, previously announced as taking place in Court Room 10 of the U.S. Court House, Constitution Avenue and John Marshall Place, NW., Washington, D.C., will now take place in the Ceremonial Court Room, on the sixth floor of that same building.

CONTACT PERSON FOR MORE INFORMATION: Mr. Jerome P. Hardiman, Director, Office of Operations, Telephone (202) 254-7362.

Samuel A. Chaitovitz,

Executive Director.

Washington, D.C., February 27, 1980.

[S-415-80 Filed 2-28-80; 10:38 am]

BILLING CODE 6325-19-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

February 25, 1980.

TIME AND DATE: 10 a.m., Wednesday, February 27, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Clinchfield Coal Company, VA 79-93-D and VA 79-94-D. (petitions for interlocutory review)
2. Island Creek Coal Company, KENT 80-22-D, etc. (Petitions for Discretionary Review)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-413-80 Filed 2-28-80; 10:17 am]

BILLING CODE 6820-12-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

February 25, 1980.

TIME AND DATE: 10 a.m., March 5, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Scotia Coal Company, BARB 78-306, etc. (Interlocutory review; issues concern denial of stay of proceedings).
2. Helen Mining Company, PITT 79-11-P; Kentland-Elkhorn Coal Corp., PIKE 78-399; Allied Chemical Corp. WEVA 79-148-D (motion of UMWA for stay of decision pending judicial review).
3. Alabama By-Products Corporation, SE 79-110, etc. (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-414-80 Filed 2-28-80; 10:17 am]

BILLING CODE 6820-12-M

9

February 27, 1980.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 5, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following:

4. C.C.C. Pompey coal Company, docket No. PIKE 78-125-P. (Petition for Discretionary Review)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-63-5632.

[S-419-80 Filed 2-28-80; 2:37 pm]

BILLING CODE 6820-12-M

10

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 10 a.m., March 17, 1980.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Blvd., Arlington, Va. 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. President's Report.
3. Financial Report.
4. Project Summaries.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr., (703) 841-3812.

[S-420-80 Filed 2-28-80; 2:37 pm]

BILLING CODE 7025-01-M

11

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 2 p.m., Thursday, March 6, 1980.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor, Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Proposed regulation on lending rates.
3. Request from Hughes Federal Credit Union, Tucson, Arizona to share automated teller equipment with United Bank of Arizona.
4. Request from New England IBM Federal Credit Union, Essex, Vermont, to share automated teller equipment with The Howard Bank, Burlington, Vermont.
5. Report on actions taken under delegations of authority.
6. Applications for charters, amendments to charters, bylaw amendments, and mergers as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady,

Secretary of the Board, telephone (202) 357-1100.

[S-421-80 Filed 2-28-80; 2:37 pm]

BILLING CODE 7535-01-M

12

NATIONAL LABOR RELATIONS BOARD.

Notice of meeting.

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10 a.m., Tuesday, March 11, 1980.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Consideration of applicants qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated: Washington, D.C., February 28, 1980.

By direction of the Board.

George A. Leet,

Associate Executive Secretary.

[S-416-80 Filed 2-28-80; 10:38 a.m.]

BILLING CODE 7545-01-M

13

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 13254, February 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:00 a.m., Thursday, March 6, 1980, [NM-80-11].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Safety Effectiveness Evaluation*—National Highway Traffic Safety Administration's Rulemaking Process; Volume 4: Analysis, Conclusions, and Recommendations.

2. *Letter* to the National Highway Traffic Safety Administration re plans for evaluating the effectiveness of Federal Motor Vehicle Safety Standard No. 208.

3. *Marine Accident Report*—Collision of the M/V STUD with the Southern Pacific Railroad Bridge over the Atchafalaya River in Berwick Bay, Louisiana, April 1, 1978.

4. *Safety Objective Program Plan*—Collisions in Restricted Waters (VTS).

5. *Proposed Special Study*—Postcrash Fires in General Aviation Accidents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

February 28, 1980.

[S-426-80 Filed 2-28-80; 3:59 pm]

BILLING CODE 4910-58-M

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of February 25, 1980 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, February 27, 11 a.m.

1. Briefing on Status of Crystal River (Public meeting—additional item).

Thursday, February 28, 2 p.m.

1. Briefing on Sequoyah Operating License (Additional item—tentative—approximately 1 hour—public meeting).

2. Affirmation Session (Approximately 10 minutes—public meeting—items as announced).

ADDITIONAL INFORMATION: The Discussion of Siting Policy Issues (scheduled February 25) was continued on February 27 at 10 a.m., replacing Briefing on Action Plan. The February 28 Briefing on Nuclear Material Accounting is postponed.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

February 27, 1980.

[S-418-80 Filed 2-28-80; 2:37 pm]

BILLING CODE 7590-01-M

15

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 3, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, March 4, 1980, at 10:00 a.m. and on Wednesday, March 5, 1980, immediately following the 10:00 a.m. open meeting. Open meetings will be held on Wednesday, March 5, 1980, at 10:00 a.m. and on Friday, March 7, 1980, at 3:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 4, 1980, at 10:00 a.m., will be:

Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Dismissal of injunctive actions.
Litigation matters.
Formal orders of investigation.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action and administrative proceeding.
Report of investigation.
Institution of administrative proceeding of an enforcement nature.
Application for reentry into employment in the securities industry.
Freedom of Information Act appeals.

The subject matter of the closed meeting scheduled for Wednesday, March 5, 1980, immediately following the 10:00 a.m. open meeting, will be:

Opinions.

The subject matter of the open meeting scheduled for Wednesday, March 5, 1980, at 10:00 a.m., will be:

1. Consideration of whether to adopt a technical amendment to Rule 27f-1 under the Investment Company Act of 1940, regarding initial payments under periodic payment plans in excess of the amount of a regular monthly payment. For further information, please contact Mark J. Mackey at (202) 272-3045.

2. Consideration of a request by Mrs. Evelyn Y. Davis that the Commission review the Division of Corporation Finance's determination concerning a shareholder proposal submitted to Armco, Inc. For further information, please contact William E. Morley at (202) 272-2578.

3. Consideration of whether to authorize the Division of Corporation Finance to issue a staff interpretative release setting forth its views with respect to, among other things, when certain tender offers commence for purposes of Regulations 14D and 14E, which

Regulations were adopted by the Commission on December 6, 1979. For further information, please contact John J. Huber at (202) 272-2589.

4. Consideration of whether to amend Rule 10b-6 under the Securities Exchange Act of 1934 concerning the application of that Rule to (i) purchases of an issuer's securities pursuant to a tender offer by the issuer or an affiliate which is subject to Rule 13e-4 under the Act or Section 14(d) and the rules thereunder, and (ii) distributions of securities by an issuer pursuant to employee or shareholder plans; and delegation of authority to the Director of the Division of Market Regulation to grant exemptions from Rule 13e-4 pursuant to paragraph (g)(5) thereof. For further information, please contact Mary E. Chamberlin at (202) 272-2828.

5. Consideration of whether to amend Rule 19d-1 under the Securities Exchange Act of 1934 that would eliminate the need for national securities exchanges to provide the Commission with notice of certain exchange-imposed summary sanctions arising from breaches of exchange rules of decorum. For further information, please contact Thomas C. Etter, Jr. at (202) 272-2398.

6. Consideration of whether to amend Rule 17a-4 under the Securities Exchange Act of 1934, relating to the availability to the staff of documents required to be made and preserved under Rules 17a-3 or 17a-4. For further information, please contact JoAnn Zuercher at (202) 272-2368.

7. Consideration of whether to affirm action, taken by the Duty Officer, authorizing the staff to file a statement *amicus curiae* before the Merit Systems Protection Board in *Dennis* v. *Department of Navy*. For further information, please contact Harlan W. Penn at (202) 272-2454.

8. Consideration of whether to grant the application of Clark Joseph Winslow, pursuant to Section 9(c) of the Investment Company Act of 1940, for an exemption from the statutory disqualifications of Section 9(a) of the Act arising from the entry of a Final Order against Winslow by the United States District Court for the Southern District of New York in an enforcement action instituted by the Commission. For further information, please contact James G. Mann at (202) 272-2256.

9. Consideration of whether to issue a release amending Regulation S-X to (i) reduce the required detail disclosure of loans to non-officer directors of bank holding companies and banks, and (ii) revise reporting of large certificates of deposit and time deposits. For further information, please contact Lawrence J. Bloch at (202) 272-2130.

10. Consideration of whether to issue a concept release requesting comments on whether to retain the historical and pro forma ratios of earnings to fixed charges presently required in certain registration statements filed with the Commission, as well as on specified concerns with the calculation of the ratio where retention is recommended. For further information, please contact Rita Gunter at (202) 272-2133.

The subject matter of the open meeting scheduled for Friday, March 7, 1980, at 3:30 p.m., will be:

Memorial Service for Former Chairman Ray Garrett, Jr. For further information, please contact Ira H. Pearce at (202) 272-2220.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: John Granda at (202) 272-2091.

February 27, 1980.

[S-412-80 Filed 2-28-80; 9:02 am]

BILLING CODE 8010-01-M

16

[Meeting No. 1237]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., EST, Thursday, March 6, 1980.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

Project Authorizations

1. No. 2072.9—Amendment to project authorization for direct production of ammonium polyphosphate from wet-process phosphoric acid.

2. No. 3061.2—Amendment to project authorization for urea phosphate fertilizer.

3. No. 3468—Regional demonstration of Federal, State, and local cooperation in development and management of a recreation and scenic stream access system in the Tennessee Valley.

4. No. 3506—Convert the Chemstrand, Alabama, 46-kV Substation to 161 kV.

Purchase Awards

[1] 1. Req. No. 827371—Sampling systems for Browns Ferry, Sequoyah, and Watts Bar Nuclear Plants.

2. Req. No. 578994—Railroad tank cars for Chemical Development, Design Branch, Muscle Shoals, Alabama.

3. Req. No. 163648—Low pressure rotors for Colbert Steam Plant Units 1 and 3, and Kingston Steam Plant Units 6 and 8.

Power Items

1. Agreement with Chattanooga, Tennessee, covering arrangements for distributor's participation in TVA's remote meter reading/load control test.

2. Lease and amendatory agreement with Natchez Trace Electric Power Association covering arrangements for 161-kV delivery at TVA's Europa Substation.

3. Lease and amendatory agreement with Middle Tennessee Electric Membership Corporation covering arrangements for higher voltage deliveries at TVA's Lebanon 161-kV, Triune 69-kV, and Watertown 46-kV Substations.

4. Letter agreement with Monsanto Textiles Company concerning installation of additional power supply facilities to serve Monsanto's plant near Decatur, Alabama.

Personnel Items

1. Change of status for Herman E. Smalling from Project Manager (Acting) to Project Manager, Pickwick Landing Dam Main Lock Project, Division of Construction, Office of Engineering Design and Construction, Pickwick, Tennessee.

2. Change of status for Maurice L. Msarsa from Chief, Mapping Services Branch, to Manager of Resource Services, Office of Natural Resources, Chattanooga, Tennessee.

3. Establishment of staffing relocation incentive bonuses to assist in staffing positions in the Management and Physician Schedules.

Real Property Transactions

1. Sale of permanent easements to Hamilton County, Tennessee, Department of Education, affecting 2.88 acres of the Sequoyah Nuclear Plant access railroad right of way in Hamilton County, Tennessee—Tract XSNPRR-4E.

2. Sale of permanent easement to Hutson Chemical Company, Incorporated, for an office building and parking lot site, affecting approximately 5.6 acres of Kentucky Reservoir land in Calloway County, Kentucky—Tract XGIR-9021E.

3. Abandonment of flowage and other rights affecting a 0.04-acre portion of Boone Reservoir land located in Sullivan County, Tennessee—Tract BR-466F.

4. Filing of condemnation suits.

5. Contract with Monroe County, Tennessee, covering arrangements for development of a 200-acre industrial park on Tellico project land.

Unclassified

1. New TVA policy code guaranteeing employees the right to have their views on substantive matters carried to high management levels, particularly in the areas of public health and safety.

2. Revised TVA policy code relating to TVA's program of assistance to communities in solving solid waste management problems.

3. Watts Bar Nuclear Plant—Rhea County Socioeconomic Mitigation.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: February 28, 1980.

[S-427-80 Filed 2-28-80; 4:04 pm]

BILLING CODE 8120-01-M

[1] Item approved by individual Board members. This would give formal ratification to the Board's action.

Federal Register

Monday
March 3, 1980

Part II

Department of Health, Education, and Welfare

Public Health Service

Health Maintenance Organizations

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, Cumulative List of Qualified Health Maintenance Organizations.

SUMMARY: The entities listed in this notice include all health maintenance organizations (HMOs) qualified under Title XIII of the Public Health Service Act as of December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, (301) 443–4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act (the Act) at 42 CFR section 110.605(b) require annual publication of a cumulative list of all qualified HMOs. The entities listed in this notice have been determined to be qualified HMOs under Section 1310(d) of the Act (42 U.S.C. 300e–9(d)). The list does not include any entity whose qualification as an HMO was revoked under section 1312 of the Act on or before December 31, 1979. This information is presented alphabetically in three formats: (A) Organizational model; (B) States in which the HMOs do business; and (C) Name, address, service area, and date of qualification.

Files containing additional information with respect to qualified HMOs are available for public inspection between the hours of 8:30 am and 5:00 pm on Tuesdays and Thursdays at the Office of Health Maintenance Organizations, Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

A. Listing by Organizational Model

Staff/Medical Group Model

Staff

Anchor Organization for Health Maintenance.
California Medical Group Health Plan, Inc.
Capital Area Community Health Plan, Inc.
Community Group Health Plan, Inc./dba Prime Health
Community Health Care Center Plan, Inc.
Community Health Plan of Suffolk, Inc.
Connecticut Health Plan, Inc.
Family Health Plan Cooperative
Family Health Program, Inc.
Florida Health Care Plan, Inc.
Georgetown University Community Health Plan, Inc.
Group Health Association, Inc.
Group Health Cooperative of So. Central Wisconsin.
Group Health Plan of New Jersey, Inc.
Group Health Plan of Southeast Michigan.
Group Health Service of Michigan, Inc.
Harvard Community Health Plan.
Health Care of Louisville, Inc.
Health Care Plan of New Jersey.
The Health Care Plan, Inc.
Health Central
Health Central, Inc.
Manhattan Health Plan, Inc.
Matthew Thornton Health Plan, Inc.
Metropolitan Baltimore Health Care, Inc.
Metropolitan Health Council of Indianapolis, Inc.
Michael Reese Health Plan, Inc.
North Central Connecticut Health Maintenance Organization, Inc.
Piedmont Health Care Corporation.
Prepaid Health Care, Inc.
Rhode Island Group Health Association, Inc.
Roosevelt Health Plan
Rutgers Community Health Plan.
Southern Connecticut Community Health Plan
Toledo Health Plan/dba Health Plus.
Westchester Community Health Plan.

Medical Group

American Health Plan, Inc.
Arizona Health Plan, Inc.
Comprehensive Health Services of Detroit, Inc.
Cooperative Health Plan of Greater Spokane.
Fallon Community Health Plan, Inc.
Gem Health Association, Inc.
Genesee Valley Group Association.
George Washington University Health Plan, Inc.
Group Health of El Paso, Inc.
Health Alliance Plan of Michigan
HealthCare, Inc.
Health Maintenance Organization of Baton Rouge, Inc.
Health Service Plan of Pennsylvania.
INA Healthplan of Arizona, Inc. (formerly ABC–HMO).
Kaiser Community Health Foundation.
Kaiser Foundation Health Plan, Inc. (Northern California), (Southern California), (Hawaii Region).
Kaiser Foundation Health Plan of Oregon.
Kaiser Foundation Health Plan of Colorado.
Kaiser/Prudential Health Plan.
North Communities Health Plan, Inc.
Peak Health Plan, Ltd.
Penn Group Health Plan, Inc.
The Philadelphia Health Plan.
Protective Health Providers.
Prudential Health Care Plan, Inc.
SHARE Health Plan
Southwest Medical Plan.
Valley Health Plan, Inc.
West River Health Maintenance Organization

Individual Practice Association Model

AV–MED, Inc.
Bay Pacific Health Plan.
Capitol Health Care, Inc.
Choice Care Health Services, Inc.
Co-MED.
COMPRECARE, Inc.
Comprecare, Inc. (Formerly So. L.A. Community Health Plan).
Crossroads Health Plan.
Eastern Pennsylvania HMO, Inc.
Family Health Services, Inc.
Foundation Health Plan.
Genesee Health Care, Inc.
Greater Delaware Valley Health Care, Inc.
Health Maintenance Network of Southern California/dba
Health Net
Health Maintenance of Oregon, Inc.
The Health Maintenance Organization of Pennsylvania.
Health Plus, Inc.
HMO Concepts, Inc.
HMO Illinois, Inc.
Healthwise, Inc.
Idaho HMO, Inc.
Independence Health Plan of Southeastern Michigan, Inc.
Intergroup Prepaid Health Services, Inc.
Lane Group Health Services, Inc./dba SelectCare
Lifeguard, Inc.
Los Padres Group Health.
Marion Health Foundation, Inc.
MAXI–CARE
MetroCare of Arlington, Texas.
Michigan Health Maintenance Organization Plans, Inc.
Monumental Health Plan, Inc.
Northern California Institute for Medical Service, Inc./dba Rockridge Health Care Plan.
PacifiCare, Inc.
Physicians Association of Clackamas County
Portland Metro Health, Inc.
Rochester Area Health Maintenance Organization.
Rocky Mountain Health Maintenance Organization, Inc.
Ross-Loos Health Plan of Southern California.
San Luis Valley Health Maintenance Organization.
Southshore Health Plan, Inc.
TakeCare Corporation.
Texas Prepaid Health Plan

B. Listing By States

Alabama

None

Alaska

None

Arizona

Arizona Health Plan, Inc., Phoenix INA Healthplan of Arizona, Phoenix (formerly ABC–HMO)

Arkansas

None

California

Bay Pacific Health Plan, San Mateo
California Medical Group Health Plan, Inc., Los Angeles
CompreCare, Inc., Los Angeles
Family Health Program, Inc., Fountain Valley
Family Health Services, Inc. (dba General Medical Centers Health Plan), Anaheim
Foundation Health Plan, Sacramento
Health Maintenance Network of Southern California, Van Nuys

HMO Concepts, Inc., Anaheim
Kaiser Foundation Health Plan, Inc. (Southern Cal. Region), Los Angeles (Northern Cal. Region), Oakland
Lifeguard, Inc., Campbell
Los Padres Group Health, San Luis Obispo
MAXICARE, Hawthorne
Northern California Institute for Medical Service, Inc. (dba Rockridge Health Care Plan), Oakland
PacifiCare, Inc., Los Angeles
Protective Health Providers, San Diego
Ross-Loos Health Plan of Southern California, Los Angeles
TakeCare Corporation, Oakland

Colorado

ChoiceCare Health Services, Inc., Fort Collins
COMPRECARE, Inc., Denver
Kaiser Foundation Health Plan of Colorado, Inc., Denver
Peak Health Plan, Ltd., Colorado Springs
Rocky Mountain Health Maintenance Organization, Inc., Grand Junction
San Luis Valley HMO, Inc., Alamosa

Connecticut

Community Health Care Center Plan, Inc., New Haven
Connecticut Health Plan, Inc., Bridgeport
North Central Connecticut Health Maintenance Organization, Inc., Windsor
Southern Connecticut Community Health Plan, Stamford

District of Columbia

Georgetown University Community Health Plan, Inc., Washington
George Washington University Health Plan, Inc., Washington
Group Health Association, Inc., Washington
HealthPlus, Inc., Riverdale, MD [1]

Delaware

None

Florida

American Health Plan, Inc., Miami
AV-MED Inc., Miami
Florida Health Care Plan, Inc., Daytona Beach
Prepaid Health Care, Inc., Clearwater

Georgia

HealthCare, Inc., Atlanta

Hawaii

Kaiser Foundation Health Plan, Inc., Honolulu

Idaho

Gem Health Association, Inc., Boise
Idaho Health Maintenance Organization, Inc., Boise

Illinois

Anchor Organization for Health Maintenance, Chicago
HMO Illinois, Inc., Chicago
Intergroup Prepaid Health Service, Chicago
Michael Reese Health Plan, Chicago
North Communities Health Plan, Inc., Glenview
Roosevelt Health Plan, Chicago

Indiana

Metropolitan Health Council of Indianapolis, Inc., Indianapolis
HealthCare of Louisville, Louisville, Kentucky [1]
Intergroup Prepaid Health Services, Chicago, Illinois [1]

Iowa

None

Kansas

Community Group Health Plan, Kansas City, Missouri [1]

Kentucky

HealthCare of Louisville, Louisville

Louisiana

Health Maintenance Organization of Baton Rouge, Inc., Baton Rouge

Maine

None

Maryland

Georgetown University Community Health Plan, Washington, D.C. [1]
Group Health Association, Washington, D.C.[1]
HealthPlus, Inc., Riverdale
Metropolitan Baltimore Health Care, Inc., Baltimore
Monumental Health Plan, Inc., Baltimore

Massachusetts

Fallon Community Health Plan, Worcester
Harvard Community Health Plan, Allston
Matthew Thornton Health Plan, Inc., Nashua, New Hampshire [1]
Rhode Island Group Health Association, Providence, Rhode Island [1]
Valley Health Plan, Inc., Amherst

Michigan

Comprehensive Health Services of Detroit, Inc., Detroit
Genesee Health Care, Inc, Flint
Group Health Service of Michigan, Inc., Saginaw
Group Health Service of Michigan, Inc., Warren
Health Alliance Plan of Michigan, Detroit
Health Central, Inc., Lansing
Independence Health Plan of Southeastern Michigan, Inc., Southfield
Michigan Health Maintenance Organization Plans, Inc., Detroit

Minnesota

SHARE Health Plan, Bloomington

Mississippi

None

Missouri

Community Group Health Plan, Kansas City

Montana

None

Nebraska

Health Central, Lincoln

Nevada

None

New Hampshire

Matthew Thornton Health Plan, Inc., Nashua

New Jersey

Co-MED, Inc., Cedar Knolls
Crossroads Health Plan, East Orange
Group Health Plan of New Jersey, Inc., Guttenberg
Health Care Plan of New Jersey, Cherry Hill
Health Service Plan of Pennsylvania, Philadelphia, Pennsylvania [1]
Rutgers Community Health Plan, New Brunswick
Southshore Health Plan, Inc., Northfield

New Mexico

None

New York

Capital Area Community Health Plan Inc., Latham
Community Health Plan of Suffolk, Inc., Hauppauge
Genesee Valley Group Health Association, Rochester
The Health Care Plan, Inc., Buffalo
Manhattan Health Plan, Inc., New York
Rochester Area Health Maintenance Organization, Inc., Rochester
Westchester Community Health Plan, White Plains

North Carolina

None

North Dakota

West River Health Maintenance Organization, Hettinger

Ohio

Kaiser Community Health Foundation, Cleveland
Marion Health Foundation, Inc., Marion
The Toledo Plan (dba Health Plus), Toledo

Oklahoma

None

Oregon

Capital Health Care, Inc., Salem
Health Maintenance of Oregon, Inc., Portland
Kaiser Foundation Health Plan of Oregon, Portland
Lane Group Health Services, Inc., Eugene
Physicians Association of Clackamas County, Gladstone
Portland Metro Health, Inc., Portland

Pennsylvania

Eastern Pennsylvania HMO, Inc., Allentown
Greater Delaware Valley Health Care, Inc., Radnor
The Health Maintenance Organization of Pennsylvania, Willow Grove
Health Service Plan of Pennsylvania, Philadelphia
Penn Group Health Plan, Inc., Pittsburgh
The Philadelphia Health Plan, Philadelphia

Rhode Island

Rhode Island Group Health Association, Inc., Providence

South Carolina

Piedmont Health Care Corporation, Greenville

South Dakota

West River Health Maintenance Organization [1]

Tennessee

None

Texas

Group Health of El Paso, Inc., El Paso
Kaiser/Prudential Health Plan, Dallas
MetroCare, Arlington
Prudential Health Care Plan, Inc., Houston
Southwest Medical Plan, San Antonio
Texas Prepaid Health Plan, Bellaire

Utah

Family Health Program, Inc., Salt Lake City [2]

Vermont

None

Virginia

Georgetown University Community Health Plan, Washington, D.C.
Group Health Association, Washington, D.C.[1]

Washington

Cooperative Health Plan of Greater Spokane, Spokane Kaiser Foundation Health Plan of Oregon, Portland, Oregon
Portland Metro Health, Inc., Portland, Oregon

West Virginia

Healthwise, Inc., Beckley

Wisconsin

Family Health Plan Cooperative, Milwaukee
Group Health Cooperative of South Central Wisconsin, Madison

Wyoming

None

Guam

Family Health Program, Inc., Long Beach, California[1]

Puerto Rico

None

Virgin Islands

None

C. Listing by Name, Address, Service Area, and Date of Qualification

1. AV-MED, Inc., 9400 South Dadeland Boulevard, Miami, Fla. 33156. Service area: Dade County, Fla. Date of qualification: Operationally qualified—October 7, 1977. (Achieved preoperational qualification on September 9, 1977.)

2. American Health Plan, Inc., 560 N.W. 165th Street Road, Suite 105, Miami, Fla. 53169. Service area: Dade and Broward Counties in the State of Florida. Date of qualification: Transitionally qualified—July 29, 1977.

3. Anchor Organization for Health Maintenance, 1725 West Harrison Street, Chicago, Ill. 60612. Service area: DuPage County and the following zip codes in the city of Chicago and suburban areas:

City of Chicago

60601–18, 60621–6, 60629–32, 60634–41, 60644–8, 60650–1, 60653–4, 60656–7, 60659–60, 60666, 60670–1, 60675, 60684–5, 60693.

Suburban Areas

60004–08, 60010, 60015–8, 60023, 60025–6, 60029, 60035, 60043, 60047, 60053, 60056, 60060, 60062, 60067–9, 60076, 60090–1, 60093, 60101, 60103–4, 60106, 60108, 60130–1, 60143, 60153, 60160, 60162–5, 60171–2, 60176, 60191, 60201–4, 60301–5, 60401–2, 60406, 60409, 60411, 60417, 60419, 60422–3, 60425–6, 60429–30, 60438, 60443, 60445, 60448–9, 60452, 60459, 60461–2, 60466, 60468–9, 60471–3, 60475–7, 60513, 60525, 60534, 60558.

Date of qualification: Transitionally qualified—December 20, 1977.

4. Arizona Health Plan, Inc., 4811 North Seventh Street, Phoenix, Ariz. 85014. Service area: Maricopa County and the unincorporated area of Pinal County known as Apache Junction. Date of qualification: Transitionally qualified—August 24, 1978.

5. Bay Pacific Health Plan, 3080 La Selva, San Mateo, California 94403. Service area: San Mateo County, California. Date of qualification: Operationally qualified—March 29, 1979. (Achieved preoperational qualification March 28, 1979.)

6. California Medical Group Health Plan, Inc., 1880 Century Park East, Suite 1500, Los Angeles, Cal. 90067. Service area: the zip codes included in the area are as follows:

Los Angeles County, Calif.

90001–26, 90028–9, 90031–49, 90054, 90056–9, 90061–9, 90071, 90201, 90210–2, 90220–2, 90230, 90240–2, 90245–50, 90254–5, 90260–2, 90265, 90270, 90272, 90274, 90277–8, 90280, 90290–1, 90301–5, 90401–5, 90501–6, 90601–6, 90631, 90638, 90640, 90650, 90660, 90701, 90706, 90710, 90712–3, 90715–7, 90723, 90731–2, 90744–9, 90801, 9804–8, 90810, 90812–5, 90840, 91001, 91006, 91010–11, 91016, 91020, 91024, 91030, 91040, 91042, 91046, 91101, 91103–8, 91201, 91209, 91301–4, 91306–7, 91310–11, 91316, 91321, 91324–6, 91331, 91335, 91340, 91342–5, 91350–2, 91355, 91364, 91401–3, 91405–6, 91411, 91423, 91436, 91501–2, 91504–6, 91601–2, 91604–8, 91702, 91706, 91711, 91722–4, 91731–3, 91738, 91740, 9174–6, 91748, 91750, 91754, 91765–8, 91770, 91773, 91775–6, 91780, 91789–92, 91801–3, 93510, 93532, 93534, 93543–4, 93550, 93553, 93563.

Orange County, Calif.

90620–4, 90630–1, 90680, 90720, 90740, 90742–3, 92621, 92624–7, 92629–34, 92636–8, 92640–53, 92655, 92660–70, 92672, 92675–8, 92680, 92683, 92686–7, 92701–11, 92713–7, 93801–2, 92804–7.

Riverside County, Calif.[3]

91720, 91752, 91760, 92330, 92370, 92388, 92501–9.

Santa Barbara County, Calif.

93013, 93017, 93067, 93101, 93103, 93105, 93108–11, 93427, 93441, 93460, 93463.

San Bernardino County, Calif.

91701, 91710, 91730, 91739, 91743, 91761–4, 91786, 92316, 92318, 92324, 92335, 92346, 92354, 92369, 92373, 92376, 92401, 92404–5, 92407–11.

San Diego County, Calif.

92001–2, 92007–8, 92010–1, 92014, 92017, 92020–1, 92024–5, 92027, 92032, 92035, 92037, 92040–1, 92045, 92050, 92064–5, 92067, 93069, 92071, 92073, 92075, 92077–8, 92101–11, 92113–29, 92131, 92133, 92135, 92137, 93139–40, 92145, 92154–5, 92162.

Ventura County, Calif.

91320, 91360–2, 93010, 93016, 93021, 93040, 93042, 93063, 93065.

Date of qualification: Transitionally qualified—July 19, 1977.

7. Capital Area Community Health Plan, Inc., 1201 Troy-Schenectady Road, Latham, N.Y. 12110. Service area: Berkshire County, Mass; Bennington County, Vermont; Columbia, Renssalaer, and Washington Counties, New York, and cities and towns in the following counties:

Albany

Albany City, Berne Town, Bethlehem Town, Coeymans Town, Cohoes City, Colonie Town, Green Island Town, Guilderland Town, Knox Town, New Scotland Town, Rensselaerville Town, Watervliet City, Westerlo Town.

Saratoga

Ballston Town, Charlton Town, Clifton Park Town, Galway Town, Halfmoon Town, Malta Town, Mechanicville City, Milton Town, Saratoga Town, Saratoga Springs City, Stillwater Town, Waterford Town.

Schenectady

Duanesburg Town, Glenville Town, Niskayuna Town, Princeton Town, Rotterdam Town, Schenectady City.

Date of qualification: Operationally qualified-January 1, 1977. (Achieved preoperational qualification on December 6, 1976.)

8. Capitol Health Care, Inc., 960 Broadway, N.E., Suite 1, Salem, Oreg., 97301. Service area: Counties of Benton, Linn, Marion and Polk, Oreg. Date of qualification: Operationally qualified—March 1, 1978.

9. ChoiceCare Health Services, 1235 Riverside Avenue, Fort Collins, Colo. 80521. Service area: Larimer and Weld Counties, Colorado. Date of qualification: Operationally qualified—August 12, 1978. (Transitionally qualified—August 12, 1976)

10. CoMED, Inc., Cedar Knolls Plaza, 14 Ridgedale Avenue, Cedar Knolls, N.J. 07927. Service area: Counties of Morris, Passaic, Somerset, Sussex, and Warren, New Jersey. Date of qualification: Operationally qualified—October 27, 1978. (Achieved preoperational qualification on October 6, 1978.)

11. Community Group Health Plan, Inc., dba Prime Health, 6801 East 117th Street, Kansas City, Missouri 64134. Service area: Johnson and Wyandotte Counties, Kansas; Jackson and zip codes in the following counties in Missouri:

Cass

64012, 64078, 64080, 64083, 64701, 64734, 64740.

Clay

64024, 64060, 64068, 64072–3, 64089–90, 64116–9, 64155–8, 64160–1, 64165–6.

Platte

64028, 64079, 64091–2, 64150–4, 64163–4, 64167, 64169.

Date of qualification: Operationally qualified—November 26, 1976.

12. Community Health Care Center Plan, Inc., 150 Sargent Drive, New Haven, Conn.

[1] Indicates a service area, but not the primary location for the HMO.

[2] Regional component of HMO.

[3] Zip codes included a 30 mile radius of the health center.

06511. Service area—Greater New Haven area, and includes the following cities and towns: Ansonia, Beacon Falls, Bethany, Brandord, Cheshire, Derby, East Haven, Guilford, Hamden, Madison, Milford, New Haven, North Branford, North Haven, Orange, Seymour, Shelton, Wallingford, West Haven, and Woodbridge. Date of qualification: Operationally qualified—March 1, 1978. (Transitionally qualified—October 31, 1975.)

13. Community Health Plan of Suffolk, Inc., 3001 Express Drive North, Hauppage, New York 11787. Service area: Towns of Babylon, Brookhaven, Huntington, Islip, and Smithtown, and the following zip codes in Eastern Nassau:

11701, 11714, 11724, 11735, 11758, 11762, 11791, 11797, 11803–4.

Date of qualification: Operationally qualified—October 4, 1978.

14. COMPRECARE, Inc., P.O. Box 22047, 2040 South Oneida Street, Denver, Colo. 80222. Service area—The following counties: Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, Colorado. Date of qualification: Operationally qualified—July 12, 1979. (Transitionally qualified—August 20, 1976.)

15. CompreCare, Inc., 3850 Wilshire Blvd., Los Angeles, Calif, 90010. Service area—the zip codes included in the area are as follows:

Los Angeles County

90001–8, 90010–29, 90031–49, 90056–9, 90061–9, 90071, 90201, 90210–12, 90220–2, 90230, 90240–2, 90245–50, 90255, 90260, 90262, 90266, 90270, 90272, 90280, 90291, 90301–5, 90401–5, 90640, 90660, 90706, 90723, 91030, 91180, 91201–8, 91316, 91355–6, 91401–6, 91411, 91423, 91436, 91501–6, 91522, 91601–9, 91731–4, 91754, 91770, 91775–6, 91780, 91801–3.

Date of qualification: Operationally qualified—February 10, 1978.

16. Comprehensive Health Services of Detroit, Inc., 6500 John C. Lodge, Detroit, Michigan 48202. Service area—zip codes in the following counties:

Oakland

48220, 48237.

Wayne

48201–16, 48219, 48221, 48223–8, 48230, 48234–6, 48238–40.

Date of qualification: Operationally qualified—October 23, 1979.

17. Connecticut Health Plan, Inc., 4000 Park Avenue, Bridgeport, Conn. 06604. Service area—State of Connecticut, the following counties: Fairfield County—Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, and Trumbull. New Haven County—Milford. Date of qualification: Operationally qualified—March 15, 1977.

18. Cooperative Health Plan of Spokane, S. 501 Bernard, P.O. Box 204, Spokane, Wash. 99210. Service area: Spokane County. Date of qualification: Operationally qualified—August 30, 1977.

19. Crossroads Health Plan, 141 South Harrison Street, East Orange, N.J. 07018. Service area: City of Newark and Essex County, N.J. Date of qualification: Operationally qualified—April 1, 1978. (Achieved preoperational qualification on March 17, 1978.)

20. Eastern Pennsylvania HMO, Inc., Suite 1110, 1503 North Cedar Crest Blvd., Allentown, Pennsylvania 18104. Service area—Northampton and Lehigh Counties, Pennsylvania. Date of qualification: Operationally qualified—February 9, 1979. (Achieved preoperational qualification February 9, 1979.)

21. Fallon Community Health Plan, Inc., 630 Plantation Street, Worcester, Massachusetts 01605. Service area: Municipalities of Worcester County, Massachusetts, Auburn, Berlin, Boylston, Clinton, Grafton, Holden, Leicester, Millbury, Northboro, Northbridge, Oxford, Paxton, Princeton, Rutland, Shrewsbury, Spencer, Sterling, Suton, Upton, Webster, West Boylston, Westboro, and Worcester. Date of qualification: Operationally qualified—November 21, 1978.

22. Family Health Plan Cooperative, 6901 West Edgerton Avenue, Milwaukee, Wisconsin 53220. Service area—That portion of Milwaukee County, bounded on the north by Wisconsin Avenue, on the east by Lake Michigan, on the west by 124th Street, and on the south by County Line Road in Wisconsin. Date of qualification: Operationally qualified—February 28, 1979. (Achieved preoperational qualification on February 22, 1979.)

23. Family Health Program, Inc., 9930 Talbert Ave., Fountain Valley, Calif., 92708. Service area as follows—Orange County, Calif., and that portion of Los Angeles County, California South of Firestone Boulevard (Manchester Boulevard). Salt Lake County and Davis County, Utah, and those portions of Utah, within a thirty (30) mile radius of the FHP/Utah Medical Centers. The Island of Guam. Zip codes in the service area are as follows:

Los Angeles County, Calif.

90001–3, 90007–8, 90011–5, 90018, 90021–3, 90031–3, 90037, 90040, 90043–5, 90047, 90056, 90058–9, 90061–3, 90201, 90220–2, 90240–2, 90245–50, 90254–5, 90260–2, 90266, 90270, 90274, 90277–8, 90280, 90301–5, 90501–6, 90601–6, 90631, 90638, 90640, 90650, 90660, 90670, 90701, 90706, 90710, 90712–3, 90715–7, 90723, 90731–2, 90744–9, 90801–8, 90810, 90812–5, 90840, 91320, 91360, 91731–3, 91744–6, 91748, 91754, 91765, 91770, 91789, 91792, 91803.

Orange County, Calif.

90620–3, 90630–1, 90680, 90720, 90740, 90742–3, 92621, 92624–7, 92629 92630–8, 92640–53, 92655, 92660–70, 92672, 92675–8, 92680, 92683, 92686, 92701–11, 92713–7, 92801–7.

Salt Lake City, Davis, Utah, Tooele, and Summit Counties, Utah [4]

84003, 84006, 84010, 84014, 84020, 84025, 84032, 84043–4, 84047, 84054, 84057, 84060, 84062, 84070, 84084, 84087, 84101–9, 84111–21.

Ogden, Utah

84015, 84037, 84041, 94050, 84067, 84302, 84310, 84315, 84317, 84340, 84401, 84403–4.

Date of qualification: Transitionally qualified—July 29, 1977.

[4] Several zip code areas may straddle the 30 mile radius from Family Health Plan medical centers. Individuals in the areas immediately outside the limit may enroll but must use the Family Health Program physicians and the facilities of the medical centers.

24. Family Health Services, Inc., dba General Medical Centers Health Plan, 2121 Towne Centre Place, Anaheim, Calif. 92806. Service area—zip codes in the service area are as follows:

Los Angeles County

90022–3, 90031–3, 90040, 90058, 90063, 90201, 90221, 90240–2, 90255, 90262, 90270, 90280, 90601–6, 90638, 90640, 90650, 90660, 90670, 90701, 90706, 90712–3, 90715–6, 90723, 90803–8, 90814–5, 90840, 91001, 91006, 91010, 91016, 91024, 91030, 91101, 91104–8, 91702, 91706, 91711, 91722–4, 91731–3, 91740, 91744–6, 91748, 91750, 91754, 91765–8, 91770, 91773, 91775–6, 91780, 91789–92, 91801, 91803.

San Bernardino County

91701, 91710, 91730, 91739, 91743, 91761–4, 91786, 92335.

Riverside County

91720, 91752, 91760, 92370, 92501, 92503–6, 92509.

Orange County

90620–1, 90623, 90630–1, 90680, 90720, 90740, 90742–3, 92621, 92626–7, 92631–3, 92635, 92640–1, 92643–9, 92655, 92660, 92665–70, 92676, 92680, 92683, 92686, 92701, 92703–10, 92714–5, 92801–2, 92804–7.

San Diego County

92001–3, 92007–8, 92010–1, 92014, 92017, 92020–1, 92024–8, 92032, 92035, 92037, 92040–1, 92045, 92050, 92054–5, 92059, 92061, 92064–5, 92067–9, 92071, 92073, 92075, 92077–8, 92082–3, 92101–11, 92113–29, 92131, 92133, 92135, 92137, 92139–40, 92145, 92154–5, 92162.

Date of qualification: Operationally qualified—November 1, 1979. (Transitionally qualified—December 14, 1976.)

25. Florida Health Care Plan, Inc., 350 North Clyde Morris Boulevard, Daytona Beach, Fla. 32014. Service area: Volusia County, Fla. Date of qualification: Operationally qualified—August 20, 1976.

26. Foundation Health Plan, 650 University Avenue, Sacramento, Calif. 95825. Service area—Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of qualification: Operationally qualified—January 1, 1978. (Preoperationally qualified—December 22, 1977.)

27. Gem Health Association, Inc., 6565 Emerald Street, Boise, Idaho 83704. Service area: Northern half of Ada County including the city of Boise. The Southern boundary line is Kuna-Mora Road. Date of qualification: Operationally qualified—June 27, 1977.

28. Genesee Health Care, Inc., G–4488 West Bristol Road, Flint, Michigan 48507. Service area: Genesee, Shiawassee, and La peer Counties, Michigan. Date of qualification: Operationally qualified—October 15, 1979. (Achieved preoperational qualification on October 1, 1979.)

29. Genesee Valley Group Health Association, 41 Chestnut Street, Rochester, N.Y. 14647. Service area: City of Rochester and county of Monroe, N.Y. Date of qualification: Operationally qualified—May 8, 1979. (Transitionally qualified—January 30, 1976.)

30. Georgetown University Community Health Plan, Inc., Suite 300, 4200 Wisconsin Avenue, N.W., Washington, D.C.20016.

Service area: Washington, D.C.; Arlington County, Fairfax County, Prince Williams County, Loudoun County, Falls Church, Fairfax, Alexandria, Manassas, and Manassas Park, Va.; Montgomery County and Prince Georges County, Md. Date of qualification: Operationally qualified—May 25, 1979. (Transitionally qualified—May 26, 1976.)

31. George Washington University Health Plan, Inc., 1229 Twenty-fifth Street, N.W., Washington, D.C. 20037. Service area: District of Columbia; Arlington and Fairfax Counties, Falls Church, Fairfax, Alexandria, Manassas, and Manassas Park, and zip codes in the following counties, Virginia: Loudoun—22011, 22020–1, 22041, and 22170; Prince William—22110, and 22191.

Zip codes in the following counties of Maryland:

Montgomery

20012, 20014–6, 20034, 20729, 20760, 20766–8, 20795, 20810, 20832, 20850–5, 20880, 20901–4, 20906, 20910.

Prince Georges

20012, 20018, 20021–3, 20031, 20331, 20623, 20705, 20710, 20715, 20722, 20735, 20740, 20742, 20769–70, 20781–6, 20801, 20810, 20822, 20840, 20870.

Date of qualification: Transitionally qualified—July 18, 1979.

32. Greater Delaware Valley Health Care, Inc., Suite 115, Two Radnor Corporate Center, 100 Matsonford Road, Radnor, Pennsylvania 19087. Service area—Delaware County and zip codes in the following counties:

Chester County

19301, 19312, 19333, 19341–2, 19345, 19353, 19355, 19373.

Montgomery County

19003–4, 19010, 19035, 19041, 19065–6, 19072, 19087, 19096.

Philadelphia County

19104, 19113, 19131, 19139, 19142–3, 19151, 19153.

Date of qualification: Operationally qualified—October 30, 1978.

33. Group Health Association, Inc., 2121 Pennsylvania Avenue, N.W., Washington, D.C. 20037. Service area: Washington, D.C.; certain zip codes within Charles County (20601, 20612–3, 20606–17, 20640, 20646, 20675, 20695), and the entirety of Howard, Montgomery, and Prince Georges counties, Maryland; Arlington, Fairfax, Loudoun, and Prince William counties, and the independent cities of Alexandria, Falls Church, and Fairfax, Virginia. Date of qualification: Transitionally qualified—July 18, 1977.

34. Group Health Cooperative of South Central Wisconsin, 1 South Park Street, Madison, Wis. 53715. Service area: Dane County (includes Metropolitan Madison area); Rock County; Evansville Township; Sauk County, Sauk City and Prairie Du Sac Township; and Columbia County, Lodi, Arlington, and Poynette Townships. Date of qualification: Operationally qualified—June 27, 1977.

35. Group Health of El Paso, Inc., Eastwood Medical Center, 10301 Gateway West, El Paso, Texas 79925. Service area: County of El Paso, Tex. Date of qualification: Operationally qualified—February 27, 1978.

36. Group Health Plan of New Jersey, Inc., 501 70th Street, Guttenberg, N.J. 07093. Service area—the following zip codes:

Cliffside Park—07010; Edgewater—07020; Fairview—07020; Fort Lee—07024; East Newark—07024; Harrison—07024; Hoboken—07030; Kearny—07032; North Arlington—07032; North Bergen—07047; Lyndhurst—07071; Carlstadt—07072; East Rutherford—07073; Moonachie—07074; Union City—07087; Weehawken—07087; Guttenberg—07093; West New York—07093; Secaucus—07094; Jersey City—07302, 07304, 07306–7; Teterboro—07608; Little Ferry—07643; Palisades Park—07650; Ridgefield—07657.

Date of qualification: Operationally qualified—July 1, 1977. (Achieved preoperational qualification on June 27, 1977.)

37. Group Health Plan of Southeast Michigan, 21000 Mound Road, Warren, Mich, 48091. Service area—The following zip codes in the city of Detroit, Mich.: 48201–3, 48205, 48207, 48211–15, 48224, 48226, and 48234; and the cities of Hamtramck, Highland Park, Harper Woods, Oak Park, Ferndale, Pleasant Ridge, Berkley, Huntington Woods, Royal Oak, Hazel Park, Center Line, Warren, East Detroit, Madison Heights, and Roseville. Date of qualification: Operationally qualified—September 20, 1977. (Achieved preoperational qualification on September 1, 1977.)

38. Group Health Service of Michigan, Inc., 3150 Enterprise Drive, Saginaw, Michigan 48703. Service area—zip codes in the following counties:

Saginaw

48415, 48417, 48601–7, 48623, 48637, 48722, 48724, 48734.

Tuscola

48435, 48701, 48723, 48726, 48729, 48733, 48735–6, 48741, 48746, 48757–8, 48760, 48767–8.

Isabella

48858, 48878, 48883, 48893, 48896, 49310.

Bay

48611, 48613, 48631, 48634, 48650, 48706, 48732, 48747.

Date of qualification: Transitionally qualified August 27, 1979.

39. Harvard Community Health Plan, One Fenway Plaza, Boston, Mass. 02215. Service area—The following cities and towns in Massachusetts; Acton, Arlington, Bedford, Belmont, Billerica, Boston, Braintree, Brookline, Burlington, Cambridge, Canton, Carlisle, Chelsea, Concord, Dedham, Dover, Everett, Framingham, Lexington, Lincoln, Lynn, Lynnfield, Malden, Maynard, Marblehead, Medford, Melrose, Milton, Nahant, Natick, Needham, Newton, North Reading, Norwood, Peabody, Quincy, Randolph, Reading, Revere, Salem, Saugus, Somerville, Stoneham, Sudbury, Swampscott, Wakefield, Waltham, Watertown, Wayland, Wellesley, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop, Woburn. Date of qualification: Transitionally qualified—September 1, 1977.

40. Health Alliance Plan of Michigan, 2850 W. Grand Blvd., Detroit, Michigan 48202. Service area: Macomb, Oakland, and Wayne Counties, Michigan. Date of qualification: Operationally qualified—February 10, 1979.

41. HMO Concepts, Inc., 1900 Chris Lane, Anaheim, Calif. 92805. Service area: Orange County, Calif. Date of qualification: Transitionally qualified—March 17, 1978.

42. HMO Illinois, Inc., 233 North Michigan Avenue, Suite 1323, Chicago, Ill, 60601. Service area—Cook, DuPage, Fulton, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford Counties, Illinois; Lake and Porter Counties, Indiana. Date of qualification: Operationally qualified—June 15, 1977.

43. HealthCare, Inc., 4484 N. Shallowford Road, Atlanta, Georgia 30338. Service area—Cobb, DeKalb, and Gwinnett Counties, Georgia and the following zip codes in Fulton County:

30075–6, 30201, 30303, 30305, 30308–15, 30318, 30320, 30322, 30324, 30326–8, 30330–2, 30336–7, 30342, 30344, 30349, 30354, 30361.

Date of qualification: Preoperationally qualified—December 26, 1979.

44. HealthCare of Louisville, Inc., 4545 Bishop Lane, Louisville, Kentucky 40218. Service area—Jefferson County, Ky., and any portion of adjacent counties located in Kentucky and Indiana which lie within a radius of 25 air miles of the Family Health Center, 1809 Standard Avenue, Louisville, Ky. Date of qualification: Operationally qualified—April 5, 1978. (Transitionally qualified—April 2, 1976.)

45. The Health Care Plan, Inc., 664 Ellicott Square Building, Buffalo, N.Y. 14203. Service area: Erie County, N.Y. Date of qualification: Operationally qualified—September 1, 1978. (Achieved preoperational qualification on August 31, 1978.)

46. Health Care Plan of New Jersey, 1101 Kings Highway North, Suite 405, Cherry Hill, New Jersey 08034. Service area:

Burlington County

08010–11, 08015–6, 08019, 08022, 08036, 08041–2, 08046, 08048, 08052–5, 08057, 08060, 08064–5, 08068, 08073, 08075, 08077, 08088, 08505, 08511, 08515, 08518, 08554, 08562, 08620.

Camden County

08002–4, 08007, 08009, 08012, 08021, 08026, 08029–31, 08033–5, 08043, 08045, 08049, 08059, 08078, 08081, 08083–4, 08089, 08091, 08095, 08101–10.

Gloucester County

08012, 08063, 08086, 08093, 08096–7.

Date of qualification: Operationally qualified—June 1, 1976. (Achieved preoperational qualification on May 27, 1976.)

47. Health Central, 17th & N Street, Lincoln, Nebraska 68508. Service area: Lancaster County, Nebraska. Date of qualification: Operationally qualified—February 1, 1979. (Achieved preoperational qualification on January 29, 1979.)

48. Health Central, Inc., 2316 South Cedar, Lansing, Mich. 48910. Service area—Townships in the following counties—Ionia County: Portland and Danby. Eaton County: Oneida, Delta, and Windsor. Clinton County: Westphalia, Eagle, Watertown, DeWitt, and Bath. Shiawassee County: Woodhull and Perry. Ingham County: Lansing, Meridan, Williamston, Locke, Delhi, Alaiedon,

Wheatfield, Leroy, Aurelius, Vevay, Ingham, and White Oak. Date of qualification: Operationally qualified—December 19, 1977. (Achieved preoperational qualification on December 6, 1977.)

49. HealthPlus, Inc., 6611 Kenilworth Avenue, Suite 400, Riverdale, Maryland 20840. Service area—The following zip codes in Prince Georges and Montgomery Counties, Maryland and the District of Columbia:

Prince Georges County

20601, 20607, 20613, 20623, 20705, 20710, 20715–6, 20722, 20735, 20740, 20769–70, 20780–8, 20801, 20810–1, 20822, 20840, 20870.

Montgomery County

20901–4, 20906–7, 20910.

District of Columbia

20011–2, 20017–23, 20027–8, 20031–3.

Date of qualification: Operationally qualified-January 1, 1979. (Achieved preoperational qualification on December 28, 1978.)

50. Health Maintenance Network of Southern California, dba Health Net, P.O. Box 9103, Van Nuys, California 91409. Service area—zip codes included are as follows:

Los Angeles County

90001–4, 90006–8, 90010–29, 90031–7, 90039–49, 90056–9, 90061–9, 90071, 90201, 90210–2, 90220–2, 90230, 90240–2, 90245, 90247–8, 90250, 90254–5, 90260, 90262, 90265–6, 90270, 90272, 90274, 90277–8, 90280, 90290–1, 90301–5, 90401–5, 90501–6, 90601–6, 90638, 90640, 90650, 90660, 90670, 90701, 90705, 90710, 90712–3, 90715–7, 90723, 90731–2, 90744–7, 90802–8, 90810, 90813–5, 90840, 91001, 91006, 91010–1, 91016, 91020, 91024, 91030, 91040, 91042, 91046, 91101, 91103, 91105–8, 91201–8, 91214, 91302–4, 91306–7 91310–1, 91316, 91321, 91324–6, 91331, 91335, 91340, 91342–5, 91350–2, 91355–6, 91364, 91367, 91401–3, 91405–6, 91411, 91423, 91436, 91501–2, 91504–6, 91601–2, 91604–8, 91702, 91706, 91711, 91722–4, 91731–3, 91740, 91744–6, 91748, 91750, 91754, 91765–8, 91770, 91773, 91775–6, 91780, 91789–92, 91801, 91803, 93510, 93532, 93534, 93550.

Orange County

90620–1, 90623, 90630–1, 90680, 90720, 90740, 92621, 92625–7, 92630–3, 92635, 92640–1, 92643–9, 92651, 92653, 92655, 92660–2, 92665–70, 92676–7, 92680, 92683, 92686, 92701, 92703–10, 92714–5, 92801–2, 92804–7.

Riverside County

91720, 91752, 91760, 92201, 92220, 92223, 92230, 92234, 92240, 92253, 92260, 92262, 92270, 92276, 92282, 92306, 92330, 92349, 92361, 92370, 92501, 925503–9.

San Bernardino County

91701, 91710, 91730, 91739, 91743, 91761–4, 91786, 92316, 92318, 92324, 92354, 92376, 92401, 92408, 92410–1.

San Diego County

92001–2, 92007–8, 92010–1, 92014, 92020–1, 92024, 92032, 92035, 92037, 92040–1, 92045, 92050, 92064, 92071, 92073, 92075, 92077, 92101–11, 92113–35, 92137, 92139–40, 92145, 92154–5, 92162.

Ventura County

91301, 91320, 91360–1, 93063, 93065.

Date of qualification: Operationally qualified—February 1, 1979. (Achieved preoperational qualification on January 26, 1979.)

51. Health Maintenance of Oregon, Inc., Box 8471, Portland, Oreg. 97205. Service area: Clackamas, Marion, Multnomah, Polk, and Washington Counties, Oreg. Date of qualification: Operationally qualified—June 9, 1978.

52. Health Maintenance Organization of Baton Rouge, Inc., 9151 Interline Avenue, Baton Rouge, La. 70609. Service area: Parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge, La. Date of qualification: Operationally qualified—April 3, 1979. (Achieved preoperational qualification on March 13, 1978.)

53. The Health Maintenance Organization of Pennsylvania, 2500 Maryland Road, Willow Grove, Pa. 19090. Service area: Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa. Date of qualification: Operationally qualified—June 17, 1977.

54. Health Service Plan of Pennsylvania, 1401 Arch Street, Philadelphia, Pa. 19102. Service area—zip codes in the States of:

New Jersey

08002–3, 08007–9, 08012, 08021, 08029–30, 08033–5, 08043, 08046, 08049, 08052, 08057, 08065–6, 08075, 08078, 08083–4, 08091, 08093, 08101–10.

Pennsylvania

18914, 18925, 18940, 18954, 18966, 18974, 18976, 19001–4, 19006–10, 19012–8, 19020, 19022–3, 19025–6, 19028–41, 19043–4, 19046–7, 19050, 19052, 19054–8, 19060–6, 19063–7, 19070, 19072–9, 19081–7, 19089–90, 19094–6, 19101–54, 19174, 19301, 19312, 19317, 19319, 19331, 19333, 19335, 19341–2, 19345, 19355, 19357, 19366, 19373, 19377, 19380, 19395, 19401, 19403, 19405–9, 19422, 19425–6, 19428, 19432, 19444, 19452, 19454, 19460, 19462, 19468, 19477, 19479, 19481, 19486.

Date of qualification: Operationally qualified—May 4, 1978. (Transitionally qualified—April 26, 1976.)

55. Healthwise, Inc., Suite 313, Raleigh County Bank Building, Beckley, West Virginia 25801. Service area: Boone, Fayette, Raleigh, Summers, and Wyoming Counties, West Virginia. Date of qualification: Operationally qualified—November 6, 1979.

56. Idaho Health Maintenance Organization, Inc., 963 South Orchard, Suite B, Boise, Idaho 83705. Service area: Ada and Canyon Counties, Idaho. Date of qualification: Operationally qualified—May 1, 1979. (Achieved preoperational qualification on April 3, 1979.)

57. INA Healthplan, Inc., 4747 North 22nd Street, Phoenix, Arizona 85016. Service area: Maricopa County and the unincorporated area of Pinal County known as Apache Junction. Date of qualification: Transitionally qualified—August 3, 1978.

58. Independence Health Plan of Southeastern Michigan, Inc., 600 Northland Towers East, 15565 Northland Drive, Southfield, Michigan 48705. Service area—zip codes in the following counties:

Macomb

48015, 48021, 48026, 48043–5, 48047–8, 48066, 48080–2, 48077–8, 48067, 48089, 48091–4.

Oakland

48008–11, 48017–8, 48024–5, 48030, 48034, 48067, 48069–76, 48220, 48237.

Wayne

48101, 48111, 48120, 48122, 48124–7, 48134–5, 48138, 48141, 48148, 48150, 48152, 48154, 48164, 48173–4, 48180, 48183–5, 48187–8, 48192, 48195, 48203, 48205, 48215, 48218–9, 48221, 48223–5, 48227–9, 48230, 48234–6, 48238–40.

Date of qualification: Operationally qualified—August 6, 1979.

59. Intergroup Prepaid Health Services, Inc., CNA Plaza, Chicago, Ill. 60685. Service area—Illinois, counties of Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford. Indiana, counties of: Adams, Allen, Blackford, DeKalb, Delaware, Grant, Huntington, Jay, Lake, Madison, Miami, Noble, Porter, Randolph, Wabash, Wells, and Whitley. Date of qualification: Transitionally qualified—April 18, 1977.

60a. Kaiser Foundation Health Plan, Inc., (Northern California Region), 1924 Broadway, Oakland, Calif. 94612. Service area—A radius of 30 miles of any Kaiser Foundation Hospital or Northern California Permanente Medical Office including the entire counties of: Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Mateo, Santa Clara, Solana, and cities and towns in the following counties:

Amador County

Carbondale, Forest Home, Ione, Nashville.

El Dorado County

Brandon, Brela, Cameron Park, Clarksville, Cool, Cothrin, Dugan, El Dorado, El Dorado Hills, Lake Hills Estates, Latrobe, Lotus, Pilot Hill, Rescue, Shingle Springs.

Napa County

Aetna Springs, Angwin, Calistoga, Deer Park, Franklin, Kellog, Napa, Oakville, Pope Valley, Rutherford Sanitarium, St. Helena, Yountville.

Placer County

Auburn, Bowman, Hidden Valley, Lincoln, Loomis, Newcastle, Ophir, Penryn, Rocklin, Roseville, Sheridan, Sunset, Whitney Branch, Thermolands.

Sonoma County

Bloomfield, Boyes Springs, Catati, El Verano, Eldridge, Freestone, Fulton, Glen Ellen, Kenwood, Penngrove, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, Valley Ford, Vineburg.

Sutter County

Chandler, East Nicolaus, Kirkville, Nicolaus, Pleasant Grove, Rio Oso, Robbins, Trowbridge, Verona.

Yolo County

Broderick, Bryte, Capay, Clarksburg, Davis, Dixon, El Macaro, Knights Landing, Madison, Tremont, West Sacramento, Winders, Woodland, Yolo, Zamora.

Yuba County

Wheatland.

Date of qualification: Transitionally qualified—October 27, 1977.

60b. Kaiser Foundation Health Plan, Inc. (Southern California Region), 4747 Sunset Boulevard, Los Angeles, Calif. 90027. Service area—A radius of 30 miles of any Kaiser Foundation Hospital or Southern California Medical Office. Kern County and Mexico are excluded from the service area. The following zip codes located in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties are included:

90000–99, 90101, 90200–99, 90300–99, 90400–99, 90500–99, 90600–99, 90700–99 [5], 90800–99, 91000–99, 91100–99, 91200–99, 91300–99, 91400–99, 91500–99, 91600–99, 91700–99, 91800–99, 92100–99, 92400–99, 92500–99, 92600–99 [6], 92700–99, 92800–99, 92001–2, 92007–8, 92010–2, 92014, 92016–7, 92020–2, 92024–7, 92031–2, 92035, 92037, 92040–1, 92045, 92047–8, 92050, 92053–4, 92062–5, 92067, 92069–71, 92073, 92075, 92077–8, 92080, 92082–3, 92220, 92223, 92305, 92307, 92314–8, 92320–2, 92324–6, 92329–30, 92333, 92335, 92339–41, 92343, 92345–6, 92348, 92352–4, 92356, 92358–60, 92362, 92367, 92369–73, 92376, 92378, 92380–2, 92385–6, 92388, 92391–2, 92395–7, 92399, 93010, 93015, 93021, 93040, 93060, 93063–5, 93510, 93532, 93534, 93543–4, 93550, 93553, 93563.

Date of qualification: Transitionally qualified—October 27, 1977.

60c. Kaiser Foundation Health Plan, Inc. (Hawaii Region), 677 Ala Moana Boulevard, Honolulu, Hawaii 96813. Service area—Islands of Oahu and Maui. Date of qualification: Transitionally qualified—October 27, 1977.

61. Kaiser Foundation Health Plan of Oregon, 1500 Southwest First Avenue, Portland, Oreg. 97201. Service area as follows:

State of Oregon (Cities, Towns, and ZIP Codes)

Aloha—97006; Banks—97106; Barlow—97003; Beavercreek—97004; Beaverton—97005, 97007; Boone—97009; Bridal Veil—97010; Brightwood—97011; Canby—97013; Carlton—97111; Clackamas—97015; Colton—97017; Columbia City—97018; Corbett—97019; Cornelius—97113; Dayton—97114; Deer Island—97054; Donald—97020; Dundee—97115; Eagle Creek—97022; Estacada—97023; Fairview—97024; Forest Grove—97116; Gales Creek—97117; Gaston—97119; Gladstone—97027; Gresham—97030; Hillsboro—97123; Hubbard—97032; Jennings Lodge—97267; Lafayette—97127; Lake Grove—97035; Lake Oswego—97034; Manning—97125; Marylhurst—97036; McMinnville—97128; Milwaukie—97222; Molalla—97038; Mt. Angel—97362; Mulino—97043; Newberg—97132; North Plains—97133; Oak Grove—97268; Oregon City—97045; Portland—97043, 97201–21, 97225–7, 97229–33, 97236, 97242, 97266; St. Helens—97051; Sandy—97055; Scappoose—97056; Sherwood—97140; Tigard—97223; Troutdale—97060; Tualitan—97062; Warren—97053; Wemme—97067; Westlinn—97068; Woodburn—97071–2.

[5] Except 90704 (Avalon).

[6] Except 92672 (San Clemente).

State of Washington (Cities, Towns, and ZIP Codes)

Amboy—98601; Ariel—98603; Battleground—98604; Camas—98606–7; Heisson—98622; Kalama—98625; LaCenter—98629; Ridgefield—98642; Skamania—98646; Vancouver—98660–5; Washougal—98671; Woodland—98674; Yacolt—98675.

Date of qualification: Transitionally qualified—October 27, 1977.

62. Kaiser Community Health Foundation, Bond Court Building, Suite 1100, 1300 East Ninth Street, Cleveland, Ohio 44114. Service area—Counties—Cuyahoga, Lake, Geauga, Medina, Lorain, and Summit, except the townships of Franklin and Green are excluded from Summit County. Townships in the following counties—Ashtabula: Trumbull, Hartsgrove, and Windsor. Trumbull: Mesopotamia and Farmington. Portage: Aurora, Brimfield, Charlestown, Franklin, Freedom, Hiram, Mantua, Nelson, Ravenna, Rootstown, Shalersville, Streetsboro, and Windham.

Date of qualification: Transitionally qualified—October 27, 1977.

63. Kaiser Foundation Health Plan of Colorado, 2005 Franklin Street, Denver, Colorado 80205. Service area—City and County of Denver; communities immediately surrounding Denver, including all major and minor urbanized areas immediately adjacent to Denver; and cities, towns, and communities in the following counties:

Adams

Adams City, Barr Lake, Bow Mar, Brighton, Commerce City, Derby, Dupont, Eastlake, Federal Heights, Hazeltine, Henderson, Highland Acres, Irondale, Lochbuie, Northglenn, Riverdale, Thornton, Watkins, Welby, Wesminster.

Arapahoe

Aurora, Cherry Hills, Columbine Valley, Englewood, Greenwood Village, Littleton, Sheridan.

Boulder

Boulder, Broomfield, Crescent Village, Eldorado Springs, Erie, Goodview, Lafayette, Longmont, Louisville, Marshall, Niwot, Silver Spruce, Superior, Valmont.

Clear Creek

Beaver Brook, Brookvale, Hyland Hills.

Douglas

Blakeland, Gann, Louviers, Parker, Riverside, Sedalia.

Gilpin

Floyd Hill.

Jefferson

Arvada, Aspen Park, Bensen Park, Conifer, Critchell, Deermont, Edgewater, El Rancho, Evergreen, Fenders, Green Valley Acres, Golden, Hiwan Hills, Homewood Park, Idledale, Indian Hills, Kassler, Kittredge, Lakewood, Leyden, Marshalldale, Morrison, Mountain View, Plain View, Phillipsburg, Rosedale, Semper, Sprucedale, Tiny Town, Troutdale, Twin Forks, Wheat Ridge.

Date of qualification: Transitionally qualified—October 27, 1977.

64. Kaiser/Prudential Health Plan, 7777 Forest Lane, Dallas, Texas 75230. Service area—Dallas and Rockwall Counties, Texas and zip codes in the following counties:

Collin

75002, 75018, 75023–4, 75031, 75034, 75064, 75066, 75069, 75073–5, 75077–9, 75089, 75098.

Denton

75028, 75056, 75065, 75067–8, 75201, 75226, 75247, 75259, 75262.

Kaufman

75032, 75087, 75114, 75126, 75146, 75160.

Tarrant

76010–8, 76021, 76034, 76039, 76053, 76063, 76080, 76103, 76112, 76117–8, 76125, 76148, 76248.

Date of qualification: Operationally qualified—June 1, 1979. (Achieved preoperational qualification on May 30, 1979.)

65. Lane Group Health Services, Inc., d.b.a. SelectCare, 1400 High Street, Suite C1, Eugene, Oregon 97401. Service area—zip codes as follows:

Lane County

97401–5, 97409, 97412–3, 97419, 97424, 97426–8, 97431–4, 97437–8, 97445, 97448, 97451–2, 97454, 97461, 97563, 97472, 97477, 97480, 97482, 97487–90.

Date of qualification: Operationally qualified—November 7, 1979. (Achieved preoperational qualification on October 29, 1979.)

66. Lifeguard, Incorporated, 1715 South Bascom Avenue, Bascom Financial Center, Campbell, California 95008. Service area: Santa Clara County, California. Date of qualification: Operationally qualified—February 14, 1979. (Achieved preoperational qualification on February 12, 1979.)

67. Los Padres Group Health, P.O. Box 1767, San Luis Obispo, Calif. 93406. Service area: San Luis Obispo County, Calif. Date of qualification: Operationally qualified—October 1, 1978. (Achieved preoperational qualification on September 21, 1978.)

68. Manhattan Health Plan, Inc., 425 East 61st Street, New York, N.Y. 10021. Service area—Manhattan and Roosevelt Island in county of New York in the State of New York inclusive of zip codes 10001 through 10048. Date of qualification: Operationally qualified—November 1, 1977. (Achieved preoperational qualification on October 31, 1977.)

69. Marion Health Foundation, Inc., 125 Executive Drive, Box 1085, Marion, Ohio 43302. Service area—Marion County and the township of Claibourne in adjoining Union County. Date of qualification: Operationally qualified—November 30, 1976.

70. Matthew Thornton Health Plan, Inc., 591 West Hollis Street, Nashua, N.H. 03060. Service area: Communities of Amherst, Brookline, Hollos, Hudson, Litchfield, Londonderry, Lyndeboro, Mason, Merrimack, Milford, Mont Vernon, Nashua, Pelham, Wilton, and Windham, N.H., and Dunstable, Groton, Pepperell, Townsend, and Tyngsboro, Mass. Date of qualification: Operationally qualified—August 15, 1978.

71. MAXICARE, 4455 West 117th Street, Suite 502, Hawthorne, Calif. 90250. Service

area—Los Angeles and Orange Counties, California; and the following zip codes in Ventura County, California: 91320–1, 91360–3, and 93065.

Date of qualification: Operationally qualified—April 4, 1979. (Transitionally qualified—March 25, 1976.)

72. MetroCare, 1201 North Watson Road, Arlington, Texas 76011. Service area: City of Grand Prairie in Dallas County and Tarrant County, Texas. Date of qualification: Operationally qualified—February 14, 1979. (Achieved preoperational qualification on January 30, 1979.)

73. Metropolitan Baltimore Health Care, Inc., 1005 North Point Boulevard, Baltimore, Maryland 21224. Service area—zip codes as follows:

21201–2, 21204–21, 21227–31, 21234, 21236–7, 21239, 21061, 21090.

Date of qualification: Operationally qualified—April 3, 1978.

74. Metropolitan Health Council of Indianapolis, Inc., Suite 100, 3000 Meadows Parkway, Indianapolis, Ind. 46205. Service area—Indianapolis/Marion County, Ind. Date of qualification: Operationally qualified—January 31, 1977.

75. Michael Reese Health Plan, Inc., 3055 South Cottage Grove Avenue, Chicago, Illinois 60616. Service area—City of Chicago and Cook and DuPage Counties, except the following zip codes in these counties:

60067, 60103, 60108, 60172, 60184–5, 60190, 60411, 60425, 60429, 60438, 60443, 60461, 60466, 60471, 60473, 60476, 60519, 60532, 60555.

Date of qualification: Transitionally qualified—April 17, 1978.

76. Michigan Health Maintenance Organization Plans, Inc., 2200 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226. Service area: Wayne County and zip codes in Oakland and Macomb Counties.

Oakland County

48008–11, 48013, 48017, 48024–5, 48030, 48053, 48055, 48057–8, 48063, 48067, 48069–73, 48075–6, 48084, 48220, 48237.

Macomb County

48015, 48021, 48026, 48066, 48080–2, 48089, 48091–3.

Date of qualification: Transitionally qualified—April 13, 1978

77. Monumental Health Plan, Inc., 2300 Garrison Blvd., Baltimore, Maryland 21216. Service Area: City of Baltimore. Date of qualification: Operationally qualified—November 14, 1979.

78. North Central Connecticut Health Maintenance Organization, Inc., 275 Broad Street, Windsor, Connecticut 06095. Service area: Towns of Suffolk, Enfield, East Grandby, Windsor Locks, East Windsor, Bloomfield, Windsor, South Windsor, Vernon, Avon, West Hartford, Hartford, East Hartford, Manchester, Bolton, Farmington, Plainville, New Britain, Newington, Wethersfield, Glastonbury, Rocky Hill, and Marlborough. Date of qualification: Operationally qualified—June 27, 1979.

79. North Communities Health Plan, Inc., 2050 Pfingsten Road, Glenview, Ill., 60025. Service area—Arlington Heights, Bannockburn, Barrington, Buffalo Grove, Deerfield, Deer Park, Des Plaines, E. Rogers Park, Evanston, Glencoe, Glenview, Golf, Great Lakes, Green Oaks, Hawthorn Woods, Highland Park, Highwood, Indian Creek, Kenilworth, Kildeer, Lake Bluff, Lake Forest, Lake Zurich, Libertyville, Lincolnshire, Lincolnwood, Long Grove, Mettawa, Morton Grove, Mount Prospect, Mundelein, Niles, North Brook, North Chicago, North Field, Palatine, Park Ridge, Prospect Heights, Riverwoods, Rolling Meadows, Skokie, South Barrington, Vernon Hills, West Rogers Park, Wheeling, Wilmette, and Winnetka; and the following zip codes in the City of Chicago: 60610–1, 60614, 60622, 60630, 60634–5, 60639, 60641, 60647, 60651, and 60656. Date of qualification: Operationally qualified: November 11, 1975.

80. The Northern California Institute for Medical Service, Inc., d.b.a. Rockridge Health Care Plan, 420 40th Street, Oakland, Calif. 94609. Service area: Cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Kensington, Oakland, Piedmont, and Richmond, Calif. Date of qualification: Operationally qualified—March 31, 1978.

81. Pacificare, Inc., 1423 South Grand Avenue, Los Angeles, Calif. 90015. Service area—zip codes included in the area are as follows:

Los Angeles County

90001–29, 90031–49, 90056–9, 90061–9, 90071, 90201, 90210–12, 90220–2, 90230, 90240–2, 90245, 90247–50, 90254–5, 90260, 90262, 90265–6, 90270, 90272, 90274, 90277–8, 90280, 90290–1, 90301–5, 90401–5, 90501–6, 90601–6, 90638, 90640, 90650, 90660, 90670, 90701, 90706, 90710, 90712–3, 90715–7, 90723, 90731–2, 90744–7, 90802–8, 90810, 90813–5, 90840, 91001, 91006, 91010–11, 91016, 91020, 91024, 91030, 91040, 91042, 91046, 91101, 91103–8, 91201–8, 91214, 91302–3, 91306, 91310–11, 91316, 91321, 91324–6, 91331, 91335, 91340, 91342–5, 91350–2, 91355–6, 91361, 91364, 91367, 91401–3, 91405–6, 91411, 91423, 91436, 91501–2, 91504–6, 91601–2, 91604–8, 91702, 91706, 91711, 91722–4, 91731–3, 91740, 91744–6, 91748, 91750, 91754, 91765–8, 91770, 91773, 91775–6, 91780, 91789–92, 91801, 91803, 93510, 93532, 93534, 93543–4, 93550, 93553, 93563.

San Diego County

92002, 92007–8, 92010–12, 92014, 92020–1, 92024–5, 92027, 92032, 92035, 92037, 92040–1, 92045, 92050, 92054, 92064, 92067–9, 92071, 92073, 92075, 92077–8, 92083, 92101–11, 92113–29, 92131–7, 92139–40, 92145, 92154–5, 92162.

Riverside County

91752, 92509.

San Bernardino County

91701, 91710, 91730, 91739, 91743, 91761–4, 91786, 92335.

Ventura County

91301, 91304, 91307, 91360–2, 93021, 93063, 93065.

Orange County

90620–1, 90623, 90630–1, 90680, 90720, 90740, 90742–3, 92601, 92621, 92625–27, 92630–3, 92635, 92640–1, 92543–51, 92653, 92655, 92660–2, 92665–70, 92680, 92683, 92686, 92701, 92703–10, 92714–5, 92801–2, 92804–7.

Date of qualification: Operationally qualified—December 22, 1978.

82. Peak Health Plan, Ltd., 110 South Weber, Suite 101, Colorado Springs, Colorado 80903. Service area—El Paso County and the following zip code in Teller County, Colorado: 80863. Date of qualification: Operationally qualified—November 30, 1979.

83. Penn Group Health Plan, Inc., IBM Building, Pittsburgh, Pa. 15222. Service area—Allegheny and western Westmoreland Counties. Date of qualification: Operationally qualified—November 28, 1975.

84. The Philadelphia Health Plan, 1015 Chestnut Street, Philadelphia, Pennsylvania 19107. Service area: Philadelphia County and portions of Delaware, Montgomery, and Bucks Counties, Pennsylvania. The eastern border of the Service Area is the Delaware River. The southern-most point is where State Route 420 meets the river in Delaware County. The Service Area boundary proceeds northwest along State Route 420, and then northeast along State Route 320 into Montgomery County to the Schuylkill River. The boundary follows the Schuylkill River southeast to the northwestern city limits of Philadelphia and then follows the city limits to include the entire northwest part of the city. The boundary turns north along U.S. 611 to Willow Grove and continues on State Route 263 to Hatboro. The boundary turns northeast and then east as it follows State Route 332 from Hatboro to Newton. At Newton, the boundary proceeds in a southeast direction along State Route 413 back to the Delaware River. Date of qualification: Transitionally qualified—April 13, 1979.

85. Physicians Association of Clackamas County, 18600 S.E. McLoughlin Blvd., P.O. Box 286, Gladstone, Oregon 97027. Service area: Clackamas County, Oregon. Date of qualification: Transitionally qualified—March 29, 1979.

86. Piedmont Health Care Corp., P.O. Box 6967, Greenville, S.C. 29606. Service area—Greenville, S.C., and any portion of adjacent counties, located in South Carolina, which lie within a radius of 30 miles of the Carolina Medical Center, 2320 East North Street, Greenville, S.C. Date of qualification: Operationally qualified—March 2, 1979. (Transitionally qualified—December 29, 1975.)

87. Portland Metro Health Inc., 8840 S.W. Canyon Road, Portland, Oreg. 97225. Service area—Multnomah, Clackamas, and Washington Counties, Oreg.; and Clark County, Wash. Date of qualification: Operationally qualified—January 1, 1976.

88. Prepaid Health Care, Inc., 1417 South Belcher Road, Clearwater, Fla. 33516. Service area: Pinellas County, Fla. Date of qualification: Operationally qualified—August 3, 1978. (Achieved preoperational qualification on August 3, 1978.)

89. Protective Health Providers, 150 West Washington Street, Suite 200, San Diego, Calif. 92103. Service area: San Diego County, Calif. Date of qualification: Operationally qualified—March 27, 1979. (Achieved preoperational qualification on December 28, 1978.)

90. Prudential Health Care Plan, Inc., P.O. Box 2884, Houston, Tex. 77001. Service area—Harris County and portions of Brazoria, Fort Bend, Galveston, Liberty, Montgomery, and

Waller Counties in Greater Houston metropolitan area. The zip codes included in the area are as follows:

77001–99, 77201, 77205–9, 77211, 77301–2, 77336, 77338–9, 77355–7, 77362, 77365, 77367, 77372–3, 77375, 77379–80, 77401, 77410–11, 77413, 77421, 77429–30, 77433, 77441, 77447, 77450, 77459, 77469, 77471, 77477–8, 77481, 77484, 77501–7, 77511, 77517, 77520–1, 77530, 77532, 77536–7, 77545–7, 77562–3, 77565, 77571, 77573, 77578, 77581, 77583, 77586–7, 77598.

Date of qualifications: Operationally qualified—June 2, 1976.

91. Rhode Island Group Health Association, Inc., 530 North Main, Providence, R.I. 02904. Service area—Rhode Island and the following communities in Massachusetts:

Bristol County

Attleboro, Berkeley, Dighton, Mansfield, North Attleboro, Norton, Rehoboth, Seekonk, Swansea, and Taunton.

Norfolk County

Bellingham, Franklin, Plainville, and Wrentham.

Worcester County

Blackstone and Millville.

Date of qualification: Operationally qualified—September 30, 1978. (Transitionally qualified—October 30, 1975.)

92. Rochester Area Health Maintenance Organization, Inc., 220 Alexander Street, Suite 601, Rochester, New York 14607. Service area: Monroe County, including the City of Rochester, New York. Date of qualification: Operationally qualified—November 1, 1979. (Achieved preoperational qualification on October 18, 1979.)

93. Rocky Mountain Health Maintenance Organization, Inc., 2231 North 7th Street, Grand Junction, Colo. 81501. Service area: Mesa County, Colo. Date of qualification: Operationally qualified—March 2, 1979. (Transitionally qualified—December 29, 1975.)

94. Roosevelt Health Plan, 1200 N. La Salle Street, Chicago, Illinois 60610. Service area—zip codes as follows:

Cook County

60601–7, 60610–2, 60614, 60622, 60624, 60644, 60647, 60657.

Date of qualification: Operationally qualified—May 24, 1979.

95. Ross-Loos Health Plan of Southern California, 1711 West Temple Street, Los Angeles, Calif. 90026. Service area—the following zip codes in California:

Los Angeles County

90001–100, 90101, 90201, 90210–5, 90220–4, 90230, 90240–2, 90245, 90247–50, 90254–5, 90260–2, 90266, 90270, 90272, 90274, 90277–8, 90280, 90290–1, 90301–10, 90401–6, 90501–10, 90601–12, 90638, 90640, 90650, 90660, 90670, 90701, 90706, 90710, 90712–7, 90723, 90731–3, 90744–9, 90801–48, 91001, 91006, 91010–1, 91016, 91020, 91023–4, 91030, 91040, 91042, 91046, 91101–31, 91201–14, 91302–7, 91311, 91316, 91324–31, 91335, 91340–49, 91352, 91356, 91364–71, 91401–94, 91501–23, 91601–12, 91701–2, 91706, 91710–1, 91722–4, 91730–4, 91740, 91744–50, 91754, 91761–70, 91773, 91775–8, 91780, 91786; 91789–90.

Orange County

90620–24, 90630–31, 90680, 90720, 90740, 90742–3, 91791–3, 91801–4, 91807, 92601, 92621, 92625–7, 92630–8, 92640–53, 92655, 92660–70, 92676, 92680, 92683, 92686, 92701–28, 92801–7.

Date of qualification: Transitionally qualified—June 27, 1979.

96. Rutgers Community Health Plan, 57 U.S. Highway 1, New Brunswick, N.J. 08901. Service area: Communities within a 15 mile radius of New Brunswick, which includes Middlesex County and parts of Somerset, Union, Mercer, Monmouth, and Morris Counties. Date of qualification: Operationally qualified—July 1, 1976.

97. San Luis Valley Health Maintenance Organization, Inc., 216 Victoria Avenue, Alamosa, Colorado 81101. Service area: San Luis Valley, Colorado and counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, Colorado. Date of qualification: Operationally qualified—December 26, 1978.

98. SHARE Health Plan, 7920 Cedar Avenue South, Bloomington, Minn. 55420. Service area: Hennepin, Ramsey, Anoka, Washington, and Dakota Counties, Minn. Date of qualification: Operationally qualified—July 18, 1979. (Transitionally qualifed—June 30, 1976.)

99. Southern Connecticut Community Health Plan, 1010 Summer Street, Stamford, Connecticut 06905. Service area—the following cities and towns in Connecticut: Darien, Greenwich, New Canaan, Norwalk, Redding, Ridgefield, Stamford, Weston, Westport, and Wilton. Date of qualification: Operationally qualified—July 3, 1979.

100. Southshore Health Plan, Inc., 2327 New Road, Northfield, N.J. 08225. Service area—Counties in New Jersey as follows:

Atlantic

08037, 08201, 08203, 08213, 08215, 08217, 08220–2, 08225, 08231–2, 08240–1, 08244, 08310, 08317, 08319, 08326, 08330, 08340–1, 08346, 08350, 08401–4, 08406.

Cape May

08223, 08226, 08230, 08248, 08250, 08270.

Ocean and Burlington

08087, 08215, 08224.

Date of qualification: Transitionally qualified—December 29, 1978.

101. Southwest Medical Plan, Inc., d.b.a. CompCare, 6061 Northwest Expressway, Suite 470, San Antonio, Tex. 78201. Service area: Bexar County, Texas including the city of San Antonio. Date of qualification—Operationally qualified December 31, 1978. (Achieved preoperational qualification on December 4, 1978.)

102. TakeCare Corporation, 1950 Franklin Street, Oakland, California 94659. Service area—the following zip codes in California:

Marin County

94901–73.

San Mateo County

94002, 94005, 94010, 94014–21, 94025, 94030, 94037–8, 94044, 94060–6, 94070, 94074, 94080, 94401–49.

Santa Clara County

94022, 94035, 94040–3, 94086–8, 90301–6, 95002, 95008, 95014, 95020, 95030, 95035, 95037, 95046, 95050–4, 95070, 95086, 95101–54.

Sonoma County

94922–3, 94928, 94952, 94972, 95401–6, 95419, 95430–1, 95436, 95439, 95442, 95452, 95462, 95465, 95472, 95476, 95492.

Date of qualification: Transitionally qualified—June 27, 1979.

103. Texas Prepaid Health Plan, 6700 West Loop South, Suite 400, Bellaire, Texas 77401. Service area—Harris, Fort Bend, and Montgomery counties, Texas, including zip codes in the following counties:

Liberty

77327, 77367–8, 77374, 77376, 77533, 77535, 77538, 77575, 77587.

Waller

77418, 77423, 77445, 77447, 77466, 77484.

Date of qualification: Transitionally qualified—May 31, 1979.

104. The Toledo Plan, d.b.a. Health Plus, 4334 Secor Road, Suite 105, Toledo, Ohio 43623. Service area—Lucas County, Perrysburg and Rossford in Wood County and the following zip codes in Ohio:

43460, 43465, 43504, 43528, 43537, 43542, 43551, 43558, 43560, 43566, 43601–24, 43571.

Date of qualification: Operationally qualified—October 31, 1978. (Achieved preoperational qualification on October 31, 1978.)

105. Valley Health Plan, 441 West Street, Amherst, Mass. 01002. Service area—incorporated areas as follows: Amherst, Belchertown, Conway, Deerfield, Easthampton, Granby, Hadley, Leverett, Montague, New Salem, Northampton, Pelham, Shutesbury, South Deerfield, South Hadley, Sunderland, Ware, Wendell, Whately, and Williamsburg, Mass. Date of qualification: Operationally qualified—May 10, 1978.

106. Westchester Community Health Plan, 145 Westchester Avenue, White Plains, N.Y. 10601. Service area: Westchester County, N.Y. Date of qualification: Operationally qualified—September 30, 1976. (Achieved preoperational qualification on September 28, 1976.)

107. West River Health Maintenance Organization, Box 671, Hettinger, North Dakota 53639. Service area: North Dakota—Adams County and cities in the following counties: Bowman-Bowman, Gascoyne, Rhame, and Scranton; Grant-Carson, Elgin, Lark, Leith, New Leipzig, and Raleigh; Hettinger-Bentley, Burt, Mott, New England, and Regent; Slope-Amidon, and Marmarth.

South Dakota-Corson, Harding and Perkins Counties.

Date of qualification: Operationally qualified—March 19, 1979.

Dated: February 21, 1980.

John O'Rourke,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 80-6209 Filed 2-29-80; 8:45 am]

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Federal Register

Monday
March 3, 1980

Part III

Department of Justice

Office of Justice Assistance, Research and Statistics

Financial and Administrative Guide for Grants; Request for Public Comment

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research and Statistics

Publication for Comments of the Financial and Administrative Guide for Grants

AGENCY: Office of Justice Assistance, Research and Statistics, U.S. Department of Justice.

ACTION: Proposed guideline; request for public comment.

SUMMARY: The Office of Justice Assistance, Research and Statistics is publishing for public comment the revised Financial and Administrative Guide for Grants. This manual is a reference source and guide for financial questions arising in the administration of programs funded by the Justice System Improvement Act of 1979 and the Juvenile Justice and Delinquency Prevention Act, as amended. The manual includes requirements and suggestions for the general fiscal administration of statutory requirements, award and payment of funds, reporting requirements, cost allowability principles, procurement and property management standards, grant administration principles and audit requirements.

DATE: Comments are due on or before April 17, 1980.

ADDRESSES: Send comments to Robert C. Goffus, Comptroller, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Arthur E. Curry, Director, Policy Development and Training Division, Office of the Comptroller, Office of the Justice Assistance, Research and Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531 (202) 724-5863.

SUPPLEMENTARY INFORMATION: All comments will be considered in the publication of the final guideline. The reasons for the 45 day comment period are: (1) There is a need for timely guidance to State and local governments regarding financial management requirements for the program and (2) Criminal Justice Councils and personnel from the Office of Justice Assistance, Research and Statistics, the Law Enforcement Assistance Administration, the National Institute of Justice and the Bureau of Justice Statistics were extensively involved in the development of the draft guideline manual.

ADDITIONAL INFORMATION: Only the parts of the guideline for which comments are being solicited are published herein. Those parts include the text and appendices 9, 10, 12 and 13. Appendices 1 through 5 are Federal Circulars and were previously cleared. Appendices 6 through 8 have not been revised since last clearance and Appendix 11 is a format sample. These appendices are therefore not being published for comments.

The text of the guide reads as follows:

Foreword

1. *Purpose.*—This guideline manual has been prepared as a reference source and guide for financial questions arising in the administration of grants awarded pursuant to: (1) Title I of the Omnibus Crime Control and Safe Streets Act of 1968—P.L. 90-351, as amended by the Omnibus Crime Control Act of 1970—P.L. 91-644, and as amended by the Omnibus Crime Control Act of 1973—P.L. 93-83, and (2) Title II of the Juvenile Justice and Delinquency Prevention Act of 1974—P.L. 93-415, as amended by the Fiscal Year Adjustment Act—P.L. 94-273, the Crime Control Act of 1976—P.L. 94-503, the Juvenile Justice Amendments of 1977—P.L. 95-115, and the Justice System Improvement Act of 1979. It identifies the financial management policies and procedures required of grantee organizations to assure their establishment of sound and effective business management systems. Such systems will assure that funds are properly safeguarded and used only for the purposes for which they were awarded. The manual builds upon and complements the grant funding and administrative requirements established in the effective edition of Guideline Manual 4100.1, State Planning Agency Grants; Program Announcements for categorical projects and other guidelines. The provisions of this manual are effective upon publication.

2. *Scope.*—The provisions of this guideline apply to all grantor agency awards. This guideline is of concern to all grantees and subgrantees.

3. *Cancellation.*—Guideline Manual 7100.1A, Financial Guide for Administration of Planning and Action Grants, dated April 30, 1973; Instruction 7100.2, Applicability of the Guideline Manual for the Financial Management for Planning and Action Grants, dated July 11, 1974; Guideline 7380.2, Standards for Property Acquired with LEAA Grant Funds, dated August 30, 1976; Notice 7350.6, Principles for Determining Travel Costs Applicable to LEAA Grants, dated July 24, 1979; Guideline 7200.2, LEAA Revolving Fund, dated January 4, 1978, are hereby canceled. This edition of the manual also supersedes financial policy interpretations and directives issued by the former LEAA Regional Offices.

4. *Major Changes.*—This edition of the manual updates, as appropriate, all specific policies, procedures and requirements contained in M 7100.1A; and incorporates Guideline Changes 1-4 to that document. Of equal significance, major revisions have been made to the format and style of the manual in order to facilitate its use. In addition, the following terms are defined to address current and pending changes: a. *Grantor Agency* applies to the following: (1) Office of Justice Assistance, Research and Statistics (OJARS)

(2) Law Enforcement Assistance Administration (LEAA)

(3) National Institute of Justice (NIJ)

(4) Bureau of Justice Statistics (BJS)

b. *Grants* applies to cooperative agreements as well as to grant awards and all references and requirements concerning grants will apply to cooperative agreements.

5. *Guidance.*—The grantor agency views its relationship with the grantee organization as a partnership, with the grantee providing the effort and expertise necessary to carry out approved activities and the grantor agency providing financial assistance under established policies and guidelines. Questions concerning the interpretation of policies or the applicability of certain policies to particular programs or projects should be directed to the grantor agency or primary recipient as outlined below. a. *Criminal Justice Councils (CJCs).* CJCs and categorical grantees funded directly should address their questions to the grantor agency. In addition, the grantor agency will be available to deal with questions not covered by this manual and welcomes suggestions for increasing its utility or clarifying its contents.

b. *Subgrantees.* Subgrantees receiving awards through the CJC should address their questions to that CJC.

c. *Other Organizations.* Organizations receiving Federal funds via other financial agreements not covered in paragraphs 5a and b should address their questions to the grantee/subgrantee.

6. *Deviations.*—In the event that a grantee determines that a requirement should not or cannot be applied to a program or project, or to a particular circumstance of a program or project, a written request for deviation shall be submitted to the appropriate grantor agency. This request shall specify: the provision(s) that are considered inapplicable to the project, program or circumstance; the reasons why they are considered inapplicable; and, the provision(s) that are intended to be

substituted. Action shall not be taken to implement the proposed deviation until written authorization has been received.

7. *Order of Precedence.*—In the event there are conflicting or otherwise inconsistent policies applicable to Federal grants, the following order of precedence shall apply: a. Federal legislation.

b: Code of Federal Regulations (CFR), Title 28, Chapter I and Title 41, Chapter 28.

c. Terms and conditions of the grant award

d. Policies issued in this guideline manual.

e. Guideline Manual 4100.1 (effective edition) for planning, action and formula grants.

Chapter 1. Introduction and Use of the Manual

1. *Purpose.*–This chapter serves as a guide for the interpretation and application of financial management policies contained in the remaining chapters and appendices of this document. It defines the applicability of the guideline manual, its users, its contents and the procedures for locating specific financial management policies. Users are advised to review the chapter before attempting to locate information within the manual.

2. *Application of policies.*—Although the financial management requirements specified in this guideline manual are applicable to all recipients of aid, with the general exception of contractors funded directly by the grantor agency, it is the responsibility of the CJC and other grant recipients to implement the requirements. In this regard, CJCs and large grantees (such as a unit of general local government receiving a sizable mini-block grant) should prepare their own financial management guidelines. These localized documents should incorporate, in addition to the provisions of this guideline manual, the fiscal provisions established by applicable State and local laws, regulations and policies. State and local provisions which are more restrictive than, but not in conflict with, the provisions contained in this guideline manual shall take precedence.

3. *Users of the Manual.*—a. *Organizations.* This document is provided for the use of all grantees of grantor agency funds (except the Law Enforcement Education Program), and their subgrantees. Specific organizations who are to use the guideline manual include: (1) *CJCs.* All financial management provisions of this guideline are applicable to CJCs. The guideline is to serve as their primary reference for interpretation of Federal grant administration and financial management policies. Additional requirements of a programmatic and technical nature are contained in the effective edition of M 4100.1, State Planning Agency Grants.

(2) *Direct Recipients of Categorical Grants.* All categorical grantees funded directly by the grantor agency are to use this guideline manual as their primary reference for interpreting Federal grant administration and financial management requirements. Additional requirements of a programmatic and technical nature are contained in Program Announcements and in Grant Award Packages.

(3) *Implementing Agencies.* Subgrantees (implementing agencies) of State Agencies are to adhere to the financial management requirements of conformance with the provisions of this guideline and applicable State and local laws, regulations and policies (see paragraph 2).

(4) *Agencies Under Other Agreements.* Agencies under "other agreements", such as cooperative agreements and interagency agreements, must comply with the requirements applicable to the grantee with whom they have the agreement. Depending on the type of institution, they must also comply with the special provisions for either educational institutions, hospitals or non-profit organizations which have been promulgated by the Office of Management and Budget and Federal Management Circulars referenced in chapter 2, paragraph 19.

(5) *Contractors.* Although this manual is not for the direct use of contractors, grantees should be careful to ensure that monitoring of organizations under contract to them is performed in a manner which will enable the grantees to comply with their overall financial management requirements.

b. *Individuals.* Individuals from the above organizations who may make particular use of the guideline manual include: administrators, financial management specialists, grants management specialists, accountants and auditors. These individuals are to use the guideline manual as the financial policy reference in executing their duties under grantor agency-funded programs and projects. Additionally, the document is structured to serve as a useful training guide for new employees.

c. *Aid.* An aid is provided to assist users in locating and understanding the financial management policies contained in the guideline. This aid is a subject index which contains a list of all the topics covered in the guideline manual.

4. *Categorical Application Submission Process.*—a. *General.* Categorical grants may be awarded by States, units of local government, educational institutions and hospitals or private non-profit organizations, at the discretion of the grantor agency. Specific types of funds within this category are:

CA Community Anti-Crime
CP Urban Crime Prevention Program
DF Part C Discretionary
ED Part E Discretionary
IN Internship
CD Educational Development
SS Systems and Statistics
TA Technical Assistance
TN Training
PT Prosecutor Training (407)
FR IGA
PR Part B Reobligated
HC High Crime
JS Juvenile Justice (Special Emphasis)
JN Juvenile Justice (JJDP Institute)
JC Juvenile Justice (Concentrated Federal Effort)
JA Technical Assistance (JJDP)
NI National Institute
RF Reimbursable
PG Part E—National Priority Grants Program
CJ Part F—General Criminal Justice Grants
IJ National Institute of Justice
BJ Bureau of Justice Statistics
MU Multiple Funded

b. *Program Announcements.* The grantor agency announces annually the programs which it has developed for funding under its categorical grant program. The programs are announced to the criminal justice community and the general public. These announcements are produced and distributed annually after being published in the Federal Register.

c. *Preparation and Submission of Applications.* Applications for categorical grants must be processed through the appropriate CJC. This requirement does not apply to the NIJ, OJJDP and Community Anti-Crime applications. These applications should be submitted directly to the grantor agency. However, since all categorical grants must utilize the same forms and must comply with essentially the same financial and administrative regulations, applicants for NIJ, OJJDP and Community Anti-Crime grants are encouraged to consult with the appropriate CJC prior to preparation and submission of an application.

d. *Uncleared Audit Reports.* It is the policy of the grantor agency that it WILL NOT award a categorical grant to any applicant who has an uncleared audit report on prior grantor agency awards. Every applicant for funding is on notice that unless prior audit reports are cleared, their application can be rejected for that reason.

5–7. *Reserved.*

Chapter 2. Program Requirements for General Fiscal Administration.

Section 1. Justice System Improvement Act of 1979

8. *General.*—This section is applicable to programs and projects funded in FY 1980–FY 1983. The section sets forth the program requirements relating to general fiscal administration for grants and contracts and other agreements funded by the grantor agency under the Justice System Improvement Act of 1979 (JSIA). The fiscal and administrative requirements applicable to all grantees, subgrantees, contractors and other organizations under Federal agreements are explained in this section. First, the organizational structure of the agency is defined. This section also explains the respective fiscal requirements imposed by statutes, Federal grant-in-aid regulations and administrative regulations and the new organizational structure for the agency.

9. *Organizational Structure.*—The JSIA provides a four year authorization for justice assistance, research and statistics programs. The JSIA establishes four organizations within the Department of Justice under the general authority and policy control of the Attorney General. These new organizations are: a. *Office of Justice Assistance, Research and Statistics (OJARS)* which will coordinate the activities and provide staff support for the three new assistance offices.

b. *Law Enforcement Assistance Administration (LEAA)* which is authorized to operate a State and local assistance program of Formula Grants, a National Priorities Program, a discretionary program, training and personnel development programs, community anti-crime program, juvenile justice and delinquency prevention program, and Public Safety Officers' Benefits.

c. *National Institute of Justice (NIJ)* which will ensure a balance in basic and applied research; evaluate the effectiveness of programs carried out to determine their impact upon the quality of criminal and civil justice systems; test and demonstrate civil and criminal justice programs; disseminate information; and, give primary emphasis to State and local justice systems.

d. *Bureau of Justice Statistics (BJS)* which will provide a variety of statistical services for the criminal justice community; recommend standards for the generation of statistical data; analyze and disseminate statistics; and, provide for the security and privacy of criminal justice statistics.

e. *The authority of any entity* established under the JSIA shall extend to civil justice matters only to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or inextricably intertwined with criminal justice matters.

10. *Source and Nature of Funds.*—The JSIA provides a four year authorization for justice assistance, research and statistics programs. Funds are awarded as formula and categorical (i.e., national priority, discretionary, systems and statistics, research and development, etc.) grants, contracts and other agreements. a. *Formula grants* are awarded to the States to provide assistance of State and local units of government for improvements in and coordination of their criminal justice activities.

b. *Categorical grants* are awarded to States, units of local government or private organizations at the discretion of the grantor agency. Most categorical awards are competitive in nature in that there are limited funds available and a larger number of potential recipients.

c. *Contracts* are awarded by the grantor agency, Criminal Justice Councils, entitlement jurisdictions and other grantees or subgrantees to both profit and non-profit organizations. With the exception of a few, justified sole-source situations, contracts generally are awarded via competitive procurement processes.

d. *Other forms of funding* include interagency agreements and purchase of service arrangements, which are usually entered into by two governmental units or agencies. Such funding arrangements are negotiated by the entities involved.

11. *JSIA Funds.*—The JSIA authorizes the following funds: a. *Part A—Community Anti-Crime Grants.* Part A funds are awarded for the purpose of enabling the community to engage in a process leading to the identification of problems facing that community with respect to crime, conflicts, disputes and other problems that might lead to crime, and to provide for the consideration by the community of plans to alleviate such problems. These funds are awarded as either categorical grants, cooperative agreements or contracts.

b. *Part B—National Institute of Justice Grants.* Part B funds are awarded to conduct research, demonstrations or special projects for the purpose of improving Federal, State and local criminal justice systems and related aspects of the civil justice systems; preventing and reducing crime; insuring citizen access to appropriate dispute-resolution forums; inproving efforts to detect, investigate, prosecute and otherwise combat and prevent white collar crime and public corruption, and identifying programs of proven effectiveness, programs having a record of proven success of programs which offer a high probability of improving the functioning of the criminal justice system.

c. *Pact C—Bureau of Justice Statistics Grants.* Part C funds are awarded to provide for and encourage the collection and analysis of statistical information concerning crime, (including white collar crime and public corruption), juvenile delinquency and the operation and related aspects of the criminal justice system and to support the development of information and statistical systems at the Federal, State and local levels to improve their efforts to measure and understand these levels of crime.

d. *Part D—Formula Grants Program.* Part D funds provide assistance to State and local units of government for improvements in and coordination of their criminal justice activities. The grantor agency awards these funds to States on the basis of population or on a four-part formula taking into account population, crime rate, tax rate and criminal justice expenditures of each jurisdiction. The four-part formula only comes into effect if the Formula Grant appropriation exceeds the FY 1979 appropriation for Parts C and E. In addition, each State shall provide that at least $50,000 of the Federal funds awarded to them for any fiscal year be made available to the Judicial Coordinating Council (JCC).

e. *Part E—National Priority Grants Program.* Part E funds provide for carrying out programs that, on the basis of research, demonstration or evaluation, have been shown to be effective or innovative and to have a likely beneficial impact on criminal and juvenile justice.

f. *Part F—Discretionary Grants Program.* Part F funds provide assistance to States, local government and private non-profit organizations for: (a) programs to improve and strengthen the criminal justice system; (b) programs to improve planning and coordination; (c) programs to assure the equitable distribution of funds among criminal justice components; (d) programs to prevent and combat white collar crime and public corruption; (e) court and corrections system improvements; (f) organized crime programs, and activities to disrupt illicit commerce in stolen goods and property; and, (h) community and neighborhood anti-crime efforts.

g. *Part G—Training and Manpower Development.* Part G funds provide for prosecutor training and training of criminal justice personnel.

h. *Joint Use of Funds.* Funds awarded under the various parts of the Justice System Improvement Act and the Juvenile Justice Act are to be used for programs and projects in compliance with the legislative intent of each respective part. In addition, there are several instances where, by statute, Congress intends that funds be jointly used.

(1) *Juvenile Justice Maintenance of Effort.* Under Section 261(b) of the Juvenile Justice and Delinquency Prevention Act and Section 1002 of the Justice System Improvement Act of 1979, the Administration shall maintain from the appropriation for the grantor agency, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs with primary emphasis on programs for juveniles convicted of criminal offenses or adjudicated delinquents on the basis of an act which would be a criminal offense if committed by an adult. This 19.15 percent requirement may include both administrative and action funds expended for purposes consistent with the Juvenile Justice Act. These funds are in addition to the funds appropriated under Section 261(a) of the Juvenile Justice Act.

(2) *State Planning.* In addition to Part D of the JSIA, formula funds from the Juvenile Justice Act may be used to develop a Comprehensive Application or for other pre-award activities associated with such a Comprehensive application and to pay that portion of the expenditures which are necessary for efficient administration, including monitoring and evaluation. The amount of Juvenile Justice (JJ) formula funds used for such purpose, however, may not exceed 7½ percent of the total annual allotment.

(3) *Other Federal Programs.* At the discretion of the grantor agency, a State may utilize up to 25 percent of its JJ formula grant funds to meet the non-Federal matching requirement for any other Federal juvenile delinquency program grant excluding grantor agency (LEAA, NIJ or BJS) programs.

12. *Statutory requirements.* In addition to the broad fiscal provisions of the Justice System Improvement Act, as defined in paragraph 10, there are a number of specific financial requirements which must be adhered to be grantees and subgrantees. These requirements are identified below:

a. *"Pass-Through" Requirement.* An obligation on the part of the States to make grant funds available to units of local government, or combination of local units. The pass-through requirement is applicable for block planning, block action (Part C) and juvenile justice formula funds for FY 1980 only. Each state must provide in the aggregate for FY 1980 (transition year) only. The same percentages are required as under the Crime Control and Juvenile Justice Acts. (Refer to Figure 2–2 of this chapter.) The accounting and documentation for State expenditure of the pass-through on behalf of local units of government is also the same. (Refer to paragraph 18a.)

b. *Buy-In.* This requirement is applicable to the total aggregate Part B of Part C funds which each state is required to pass-through to units of general local government or combination of local units for FY 1980 (transition year) Part B planning and Part C block action grants not less than 50 percent of the required non-Federal share. There is no buy-in requirement for FY 1981–1983 funds. This requirement DOES NOT apply to those states granted waivers.

c. *Federal Participation Ratios.* The ratios for Federal participation in the funding of programs or projects out of the Justice System Improvement Act are shown in Figure 2–1.

Figure 2–1.—*Summary of Match Requirements Under Justice System Improvement Act of 1979*

Fund Type	Match requirement	Percentage	Type of match
Part A: Community Anti-Crime	No[1]		
Part B: National Institute of Justice	No[1]		
Part C: Bureau of Justice Statistics	No[1]		
Part D Formula: Action—State	Yes[2, 3]	10	(1) Cash on a project by project basis or program by program basis if the Criminal Justice Council (State) or Criminal Justice Advisory Board (entitlement jurisdiction) adopts this more restrictive procedure as a formula; or (2) Cash on a combination of the above, if the Criminal Justice Council (State) or Criminal Justice Advisory Board (entitlement jurisdiction) adopts this more restrictive procedure as a formula and with prior approval of the grantor agency; or (3) Cash on a unit of government basis, i.e., by city.
Administrative—State (in excess of $200,000 or $250,000).	Yes[2]	50	
Action—Entitlement Jurisdiction (fiscal year 1981–83).	Yes[3]	10	
Administrative—Entitlement Jurisdiction (in excess of $25,000) (fiscal year 1981–83).	Yes	50	
Part E: National Priority	Yes[4]	50	(1) Cash on a project by project basis; or (2) Cash on an overall program basis when specific unit of government receives National Priority funds for coordinated program funds.
Part F: Discretionary	No[4, 5]		
Part G: Training and Manpower Development	No[6]		

[1] A non-Federal share of money, facilities or services can be required by the grantor agency.
[2] No match on fiscal year 1980 action funds and 50% match on planning for waiver states and a 10% match on both action and planning funds for non-waiver states.
[3] Fifty percent match required for formula project if it is an continuation of a construction project funded from block action funds awarded prior to FY 1980.
[4] Required percentage of match for fiscal year 1980 Parts E and F projects will be determined by the grantor agency.
[5] Fifty percent match will be required for projects extended or renewed for the 4th and 5th years.
[6] Curriculum Development projects require 25% cash or in-kind match on a project by project basis.

(1) *Part A—Community Anti-Crime Funds.* Federal participation may be up to 100 percent.

(2) *Part B—National Institute of Justice Funds.* Federal participation may be up to 100 percent.

(3) *Part C—Bureau of Justice Funds.* Federal participation may by up to 100 percent.

(4) *Part D—Formula Funds (Action).* Maximum Federal participation is 90 percent for FY 1981–1983. Federal participation is 100 percent for waiver states for FY 1980.

(5) *Part D—Formula Funds (Administrative).*—(a) *State.* The state may use an amount up to 7½ percent of its total formula grant for administrative purposes and this must be matched on a dollar-for-dollar basis. The Federal share of these funds is provided proportionally out of the State share and balance-of-state share of the formula grant. An additional $200,000 for the State and $50,000 for the Judicial Coordinating Council (JCC) is allowed for administrative purposes and is match free.

(b) *Entitlement Jurisdiction.* The entitlement jurisdiction may use an amount up to 7½ percent of its allocation for administration. The first $25,000 of the administrative funds is match free and the remaining funds must be matched on a dollar-for-dollar basis.

(6) *Part E—National Priority Funds.* Maximum Federal participation is 50

percent for FY 1981–1983. Federal participation for FY 1980 will be determined by the grantor agency.

(7) *Part F—Discretionary Grants.* Maximum Federal participation may be up to 100 percent for FY 1980–1983. Federal participation for FY 1980 will be determined by the grantor agency. Fifty percent match will be required for projects extended or renewed for the 4th and 5th years except for management and administration of national nonprofit organizations under Section 602(1).

(8) *Part G—Training and Manpower Development Funds.* Maximum Federal participation may be up to 100 percent.

d. *Hard Match Requirements.*—(1) *The Justice System Improvement Act provides* that the non-Federal share of the cost of any program or project under Parts D, E and F shall be cash.

(2) *Source and Type of Funds.* Hard match (cash) may be applied from the following sources:

(a) Funds from State and local units of government that have a binding commitment of matching funds for programs or projects.

(b) Funds from the following:

1. Housing and Community Development Act of 1974
2. Appalachian Redevelopment Act
3. General Revenue Sharing Act
4. Part D Formula (JSIA) for Parts E and F programs and prjects

(c) Funds contributed from private sources.

(3) *Timing of Matching Contributions.* Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full grantee and/or subgrantee matching share must be obligated by the end of the period for which the Federal funds have been made available for obligation under an approved program or project.

(4) *Records for Match.* All grantees of grantor agency funds must maintain records which clearly show the amount and the timing of all matching contributions. In addition, if a program or project has included within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of them in the same manner as he does the grantor agency funds and required matching shares. For all Part D Formula funds, the CJC or the entitlement jurisdiction has primary responsibility for compliance with the requirements. For all Part E and F funds, the grantee and the subgrantee or contractual recipient have shared responsibility for ensuring compliance with the requirements regarding matching shares.

(5) *Waiver of Match.*—(a) Section 401(b) of the JSIA provides that grantor agency programs to Indian tribes or aboriginal groups may be awarded with no required matching contribution where it is the case that the group does not have sufficient funds to meet the matching share. List of Indian entities entitled to apply for waiver are available from the U.S. Department of Interior. The following policies and procedures establish the process to be employed in seeking these special waivers.

1. *Letter of Certification.* Requests for a waiver of matching funds from Indian tribes or other aboriginal groups must be supported by a formal letter of certification stipulating that match for the application cannot be provided. This certification must be executed in name and title by the recognized leader(s) of the applicant Indian group.

2. *Fiscal Year Waivers.* The grantor agency may, at its discretion, delegate the authority to grant waivers to the CJC. This may cover some or all of the entities in a State. The waiver authority permits the CJC to approve all applications at 100 percent funding from entities during the fiscal year, provided that a certification is obtained from each application and forwarded to the grantor agency in Washington. Applications for fiscal year waivers must be supported by a statement from the CJC Director, and approved by the Governor of the State, that each Indian entity covered by the application is unable to provide non-Federal funding for that fiscal year.

(b) Section 401(b) of the JSIA provides that grantor agency programs may be awarded with NO required matching contribution where a unit of State or local government, due to budgetary constraints, is unable to provide the match (hardship case). For the required policies and procedures for requesting waivers for hardship, refer to the effective edition of Guideline Manual 4100.1.

e. *Personnel Limitation.* As required by Section 404(c)(2), NO Part D formula grant funds may be expended for programs which have as their primary purpose general salary payments for employees or classes of employees within an eligible jurisdiction. Salary payments as part of an approved program under Section 401(a) of the JSIA are allowable. Section 401(a) encompasses all the other exceptions to this restriction.

f. *Equipment Limitation.* As required by Section 404(c)(1), NO Part D formula grant funds may be expended for the routine purchase (to augment or replace) of equipment or hardware used in the normal operating activities of law enforcement and criminal justice agencies. This limitation does not apply to bulletproof vests, information systems or telecommunications hardware or equipment and related personnel costs that are incurred as part of a program fundable under Section 401.

g. *Construction Limitation.* As required by Section 404(c)(3) NO Part D formula grant funds may be expended for new construction projects. This limitation does not apply to any construction projects that were funded under the Crime Control Act prior to the passage of the JSIA which were budgeted in an Approved Comprehensive Plan in anticipation of receiving additional Federal funding. This type of construction may continue to be funded under the new Act for two years. The definition of construction is "the erection, acquisition or expansion of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor, but does not include renovation, repair or remodeling."

h. *Non-Supplanting of State or Local Funds.* The JSIA Act prohibits the use of Federal funds to supplant State or local funds. Refer to paragraph 18i for procedures and accounting for the non-supplanting requirement.

i. *Assumption of Cost.* CJCs and entitlement areas shall develop written policies that specify the duration and ratio of Federal continuation support for particular classes of projects. CJC policies shall apply to the projects of State agencies (including the judicial coordinating committee) and balance-of-state localities. Entitlement jurisdiction policies shall apply to the projects they administer. The policies of the CJC and the entitlement jurisdiction shall assure that Part D formula grant assistance for a project does not exceed three years except under certain circumstances. For exceptions to this policy, refer to the effective edition of Guideline Manual 4100.1.

j. *Adequate Share.* Section 403(a)(5) requires that an adequate share of Part D formula funds shall be allocated to courts, corrections, police, prosecution, and defense programs. Also, Section 402(c)(4)(5) requires that entitlement jurisdictions assure adequate funding for courts and correction programs based on their share of courts and corrections expenditures. For details regarding adequate share, refer to the effective edition of Guideline Manual 4100.1.

k. *Reimbursement For Unused Equipment.* The LEAA may require a grantee or other recipient of funds (Parts A, D, E or F) to reimburse LEAA for the federal share of the cost of any unused equipment OR require that appropriate

measures be taken to put such equipment into use where:

(1) the purchase was in connection with a program or project funded by LEAA;

(2) the aggregate cost was $100,000 or more; and,

(3) the equipment was not put into use within one year of the date set for commencement at the time of purchase or has not continued in use during its useful life.

13. *Regulatory Requirements.* In addition to statutory requirements, the award and administration of grant and subgrant funds are subject to applicable regulations and policies that have been promulgated by the Office of Management and Budget (OMB), the General Accounting Office and the U.S. Treasury. Grantee, subgrantee and contractor organizations should maintain, or have access to, copies of documents which present additional detailed guidance relating to the award and administration of grants, subgrants, and contracts. These documents are particularly important to grantees, subgrantees and contractors in the award and administration of funds. Contribution ratios of grantor agency programs are unaffected by the documents and, where authorizing legislation contains explicit restrictions on the reimbursement of particular costs, such restrictions are also unaffected. For a list of the regulatory documents, refer to paragraph 19 of this chapter.

14. *Administrative Requirements.*—a. *Applicability of Circulars.* This requirement is the same as under the Crime Control and Juvenile Justice Acts. Refer to paragraph 20a of this chapter.

b. *Other Administrative Requirements.*—(1) *Prior Approval of Cost Items.* Written approval of grant and subgrant costs is required for specific cost items. This prior approval responsibility is vested in either the CJC, entitlement jurisdiction or the grantor agency, depending upon the source of funds and the amount of the cost. Those costs generally requiring grantor agency, CJC or entitlement jurisdiction approval are discussed in detail in Chapter 5.

(2) *Reprogramming of Funds.*—(a) *CJC.*—1. The movement of funds from one program to another program contained in an approved State Formula Award, which results in a cumulative increase or decrease in the budgeted total cost for any program by more than 25 percent must be approved by the grantor agency prior to the expenditure of funds. The grantor agency will consider retroactive approval only in extremely unusual circumstances. When such retroactive approval is not considered warranted, the grantor agency will exercise its option to reduce the grant by the amount of the unauthorized reprogrammed funds.

2. Regardless of the amount, prior OJJDP approval is necessary for any reprogramming of Part D formula funds out of juvenile justice programs. The OJJDP must be notified of any reprogramming of funds which increases the juvenile justice maintenance of effort share for a specific state.

(b) *Entitlement Jurisdictions.* The movement of funds from one program to another contained in an approved entitlement jurisdiction award requires the prior approval of the CJC.

(3) *Redesignation of Fund Year.* Criminal Justice Councils and entitlement jurisdictions are prohibited from changing Part D formula grant and subgrant awards, and their related obligations and expenditures, from one fiscal year to another fiscal year.

(4) *Comingling of Funds.* The accounting systems of all grantees and subgrantees must insure that grantor agency funds are not comingled with funds from other Federal agencies. In addition, grantees and subgrantees are prohibited from comingling funds on either a program by program basis or a project by project basis. Funds specifically budgeted and/or received for one project cannot be used to support another. Where a grantee's or subgrantee's accounting system cannot comply with this requirement, it is recommended that the grantee or subgrantee establish subsidiary accounts or a system to provide adequate fund accountability for each project which it has been awarded.

Section 2. Omnibus Crime Control and Juvenile Justice Acts

16. *General.* This section is applicable to programs and projects funded through FY 1979. The section sets forth the program requirements relating to general fiscal administration for grants, contracts and other agreements funded by the grantor agency under the Omnibus Crime Control and Safe Streets Act of 1968 as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The fiscal and administrative requirements applicable to all grantees, subgrantees, contractors and other organizations under Federal agreements are explained in three stages. First, the source and nature of funds awarded are defined. Subsequently, the section explains the respective fiscal requirements imposed by statutes, Federal grant-in-aid regulations, and administrative regulations.

17. *Source and Nature of Funds.* Federal funds provided for the improvement of law enforcement and criminal justice programs, as authorized and appropriated by the Crime Control Act and the Juvenile Justice Act, may be used for: comprehensive planning; implementing law enforcement and criminal justice (action) programs; or sponsoring specific training, education, research and demonstration projects. The following subparagraphs explain how the funds are awarded and what they are to be used for.

a. *Basis of Awards.* Funds are awarded as formula and block (planning and action) grants, categorical (i.e., discretionary, technical assistance, research and development, etc.) grants, contracts and other agreements.

(1) *Formula and Block* grants are awarded to the States on the basis of their general population; specific target group populations, such as the number of youths under age 18, and certain calculated indices, such as the severity of crime in a state.

(2) *Categorical* grants and cooperative agreements are awarded to States, units of local government or private (profit/non-profit) organizations at the discretion of the grantor agency. Most categorical awards are competitive in nature in that there are limited funds available and a large number of potential recipients.

(3) *Contracts* are awarded by the grantor agency, CJCs, and other grantees or subgrantees to both profit and non-profit organizations. With the exception of a few, justified sole-source situations, contracts generally are awarded via competitive procurement processes.

(4) *Other forms of funding* include interagency agreements and purchase of service arrangements, which are usually entered into by two governmental units or agencies. Such funding arrangements are negotiated by the entities involved.

b. *Funds Available Under the Crime control Act.* Title I of the Crime Control Act authorize four types of funds. CJCs may use any of these funds to award subgrants, contracts or to enter into other financial arrangements for the procurement of goods and services. Other grantees/subgrantees may use these funds to award contracts or to enter into other financial arrangements for the procurement of goods and services.

(1) *Part B—Planing Grants.* Planning grants are for the use of States and units of general local government in developing and adopting comprehensive law enforcement and criminal justice plans. The grantor agency awards these funds to the States on a formula basis; each State then sub-awards a portion of

its allocation to units of local government. In addition, each state shall provide that at least $50,000 of the Federal funds awarded to them for any fiscal year be made available to the judicial planning committee.

(2) *Part C—Grants for Law Enforcement Purposes.* "Action" grants funded under this Part are for the actual implementation of State and local programs to improve and strengthen law enforcement and criminal justice. The grantor agency awards 85 percent of these funds to the States on a formula basis and the remainder of either categorical grants, cooperative agreements or contracts.

(3) *Part D—Training, Education, Research, Demonstration and Special Grants.* Part D funds are for the development of new methods for the prevention and reduction of crime. The National Institute of Law Enforcement and Criminal Justice and the Office of Criminal Justice Education and Training award these funds directly, as either categorical grants, cooperative agreements or contracts.

(4) *Part E—Grants for Correctional Institutions and Facilities.* "Action" grant funds available under this Part are for the construction, acquisition and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices. The grantor agency awards 50 percent of these funds to the States using a block formula and the remaining 50 percent of categorical grants to either CJCs or units of general local government.

c. *Funds Available Under the Juvenile Justice Act.* Title II of the Juvenile Justice Act authorizes three types of funds. CJCs may use any of these funds to award subgrants, contracts or to enter into other financial arrangements for the procurement of goods and services. Other grantees/subgrantees may use these funds to award contracts or to enter into other financial arrangements for the procurement of goods and services.

(1) *Part B, Subpart I—Formula Grants.* Funds are available under this subpart are used for various general activities to improve the overall juvenile justice system. Seventy-five percent of the funds appropriated for Part B are awarded by the grantor agency to the States on the basis of relative population of youths under age eighteen.

(2) *Part B, Subpart II—Special Emphasis Prevention and Treatment Programs.* Funds available under this subpart are used for the promotion of specific programs designed to develop new approaches for dealing with youths in trouble. Twenty-five percent of the funds appropriated for Part B are awarded directly by the grantor agency as either categorical grants, cooperative agreements or contracts.

(3) *Part C, National Institute for Juvenile Justice and Delinquency Prevention.* Funds made available through the National Institute are used for the collection, preparation and dissemination of useful data snd techniques regarding the treatment and control of juvenile offenders. All funds are awarded directly as either categorical grants, cooperative agreements or contracts.

d. *Joint Use of Funds.* Funds awarded under the various parts of the Crime Control Act and the Juvenile Justice Act are to be used for programs and projects in compliance with the legislative intent of each respective part. In addition, there are several instances where, by statute, Congress intends that funds be jointly used.

(1) *Juvenile Justice Maintenance of Effort.* Under Section 261(b) of the Juvenile Justice and Delinquency Prevention Act and Section 520(b) of the Crime Control Act of 1976, the Administration shall maintain from the appropriation for the grantor agency, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs. This 19.15 percent requirement may include both administrative and action funds expended for purposes consistent with the Juvenile Justice Act. These funds are in addition to the funds appropriated under Section 261(a) of the Juvenile Justice Act.

(2) *Funding for Corrections.* Funds under both Parts C and E of the Crime Control Act may be used for the improvement of correctional programs and facilities. Under the Part E compliance requirement, however, a State must provide assurance that Part E funds will not be used to reduce the Part C funds which a State would normally allocate to corrections.

(3) *State Planning.* In addition to Part B of the Crime Control Act, formula funds from the Juvenile Justice Act may be used to develop a State plan or for other pre-award activities associated with such State plan and to pay that portion of the expenditures which are necesssary for efficient administration, including monitoring and evaluation. The amount of Juvenile Justice (JJ) formula funds used for such purpose, however, may not exceed 7½ percent of the total annual allotment.

(4) *Other Federal Programs.* At the discretion of the grantor agency, a State may utilize up to 25 percent of its JJ formula grant funds to meet the non-Federal matching requirement for any other Federal juvenile delinquency program grant excluding grantor agency (LEAA, NIJ or BJS) programs.

18. *Statutory Requirements.* In addition to the broad fiscal provisions of the Crime Control Act and the Juvenile Justice Act, as defined in paragraph 17, there are a number of specific financial requirements which must be adhered to by grantees and subgrantees. These requirements are identified below:

a. *"Pass-Through" Requirement.* An obligation on the part of the States to make grant funds available to local units of government, or combinations of local units, as follows:

Figure 2-2.—*Summary of Pass-Through to Units of General Local Government*

Fund type	Applicability	Percentage
Part B Planning	Yes	40%.
Part C Block	Yes	Variable Pass-Through.
JJ Formula	Yes	66⅔%.
All other grantor agency funds.	No	

(1) *Part B—Planning Funds.* Forty percent of a State's Federal planning grant funds must be passed-through to general local units of government, or combinations of local units, unless a waiver has been obtained. (Section 203(c)).

(2) *Part C—Grants for Law Enforcement or Criminal Justice Purposes (Action Funds).* A variable percentage of a State's Federal block action grant funds must be passed through to units of general local government or combinations of local units. This percentage is determined by calculating the ratio of the total non-Federal local expenditures for criminal justice system operation to the total non-Federal expenditures for all operations of the criminal justice system within the State during the preceding fiscal year.

(3) *JJ—Formula Grants.* At least 66⅔ percent of funds received by the State, excluding funds made available to the State advisory group, are to be made available for programs to local units of government of combinations of local units.

(4) *Accounting and Documentation for State Expenditure of Pass-Through Funds on Behalf of Local Units of Government.* CJCs may expend, on behalf of units of general and local government, the "pass-through" portions of Part B planning funds, Part C block action funds and JJ formula funds providing the following conditions are met.

(a) *Prior Approval.* The cost of services provided by the State, or direct outlays by the State on behalf of local

units of government, may be charged as funds made available to local units only with the specific prior approval of:

1. The CJC, and
2. The local unit (s) to which the services will be made available.

(b) *Documentation.* CJC records shall contain explicit documentation of consent for such expenditures. Although no special form of documentation, accounting or recording need to be used, board meeting minutes, signed certifications or waivers, or written records of local government meetings called for this purpose are recommended.

b. *Buy-In.* This requirement is applicable to the total aggregate Part B and Part C funds which each State is required to pass-through to units of general local government or combinations of local units. Each State must provide in the aggregate of Part B planning and Part C block action grants not less than 50 percent of the required non-Federal share.

Figure 2-3.—*Summary of Buy-In Requirement*

Fund type	Applicability	Required percentage of non-Federal share to be supplied by State
Part B Planning	Yes [1] [2]	50%.
Part C Block (including construction).	Yes [3] [2]	50%
All Other Grantor Agency Funds.	No	

[1] Applicable only to required Pass-Through of 40%.
[2] Not applicable to Grants Awarded to Regional Planning Units.
[3] Applicable only to required Variable Pass-Through for state.

c. *Federal Participation Ratios.* The ratios for Federal participation in the funding of programs and projects are shown in figures 2-3:

Figure 2-4.—*Summary of Match Requirements Under Crime Control Act and Juvenile Justice Act*

Fund type	Match requirement	Percentage	Type of match	Appropriated
Part B Planning	Yes [1]	10	Cash	Aggregated.
Part C Block:				
Operational	Yes	10	Cash	(1) On a project by project basis or a program by program basis if the CJC adopts this more restrictive procedure as a formula; or (2) On a combination of the above, if the CJC adopts this more restrictive procedure as a formula and with prior approval of the grantor agency; or (3) A unit of government basis, i.e., by city, county, or by CJC.
Construction	Yes	50	Cash	
Part C: Discretionary—Awarded by grantor agency (including construction).	Yes	10	Cash	(1) A project by project basis; or (2) On an overall program basis when specific unit of government receives discretionary funds for coordinated program funds.
Part E—Awarded by grantor agency or State agency: Block and discretionary (including construction).	Yes	10	Cash	Block—same as part C block above. Discretionary—same as part C discretionary above.
Part D:				
Research, development and evaluation.	No			
Training	No			
Technical assistance	No			
Education (excluding curriculum development).	No			
Curriculum development	Yes [2]	25	Cash or in-kind.	A project by project basis.
Juvenile Justice—Formula subgrants to CJCs or units of local government: For fiscal year 1978 and prior years obligated funds.	Yes [3] [4]	10	Cash	(1) On a project by project basis or a program by program basis if the CJC adopts this more restrictive procedure as a formula; or (2) On a combination of the above, if the CJC adopts this more restrictive procedure as a formula and with prior approval of the grantor agency; or (3) Unit of government basis, i.e., by city, county, or by CJC.
For fiscal year 1978 and prior years unobligated funds (as of Oct. 1, 1978).	No [4] [5]			
For fiscal year 1979 and subsequent years funds.	No [4]			
Subgrants to private agencies: For fiscal year 1978 and prior years obligated funds.	Yes [4]	10	Cash	(1) On a project by project basis; (2) On a program by program basis if the CJC adopts this procedure; or (3) On a agency by agency basis if a given private agency is the recipient of support from more than one subgrant.
For fiscal year 1978 and prior years unobligated funds (as of Oct. 1, 1978) and for fiscal year 1979 and subsequent years funds.	No [4]			
Juvenile Justice—Special emphasis (categorical):				
For fiscal year 1978 and prior years obligated funds.	Yes [4] [6]	10	Cash	

Figure 2-4.—*Summary of Match Requirements Under Crime Control Act and Juvenile Justice Act—Continued*

Fund type	Match requirement	Percentage	Type of match	Appropriated
For fiscal year 1978 and prior years unobligated funds (as of Oct. 1, 1978) and subsequent years funds.	Yes [1]			

[1] Federal participation may be up to 100% funding to regional planning units.
[2] Cash or in-kind as determined by the grantor agency.
[3] A required non-Federal share (up to 10 percent hard match).
[4] A required non-Federal share (50% hard match) is required for construction projects.
[5] A non-Federal share (10% hard match) may be required by the CJC on fiscal year 1978 funds.
[6] Cash requirement may be waived by grantor agency in whole or in part and in-kind match substituted.
[7] A required non-Federal share of 10% hard match (money, facilities or services) can be required by grantor agency.

(1) *Part B Planning Funds.* Maximum Federal participation is 90 percent. The ration may go as high as 100 percent funding to regional planning units. (For a definition of regional planning units, refer to the effective edition of Guidelines Manual 4100.1, State Planning Agency Grants.)

(2) *Part C and Part E Action Funds.* Maximum Federal participation is 90 percent for Part C and Part E action funds except for construction under Part C block which is 50 percent.

(3) *Part D.* A grant authorized under this part may be up to 100 percent of the total cost of each project for which the grant is made. Grants using educational development funds are funded at 75 percent Federal participation and 25 percent match.

(4) *JJ Formula Funds.*—(a) *For FY 1978 and prior years obligated funds,* the Federal funds awarded may not exceed 90 percent of the costs of programs and projects funded. The non-Federal share of such costs, therefore, must be at least 10 percent.

(b) *For FY 1978 and prior years unobligated funds* (as of October 1, 1978), the Federal funds awarded may be up to 100 percent of the costs of programs and projects. Any required non-Federal share (up to 10 percent of such costs) will be determined by the CJC.

(c) *For FY 1979 and subsequent years funds,* the Federal funds awarded shall be at 100 percent of the costs of projects and programs funded.

(5) *Exceptions.* Federal participation for all construction projects funded by Part C block and juvenile justice grants is limited to 50 percent. Federal participation for all grants awarded to Insular Areas (i.e., Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands) shall be at 100 percent.

d. *Hard Match Requirements.* The Crime Control Act provides that the non-Federal share of the cost of any program or project under Parts B, C and E shall be new money appropriated in the aggregate by the State and local unit of government. Individual categorical grant recipients may provide an aggregate amount of cash to be used and applied as Federal grants are received, or may appropriate match for each categorical grant on an individual basis. The following is a discussion of how the matching contribution may be provided.

(1) *Hard Match.* May be applied from the following sources:

(a) Funds from State and local units of government, that have been identified in their budgets or appropriations as a binding commitment of matching funds for programs or projects;

(b) Funds from the Housing and Community Development Act of 1974.

(c) Funds contributed from public and private sources.

(d) Funds from Applachian Redevelopment Act.

(e) Funds from General Revenue Sharing Act.

(2) *New Funds.* May be calculated on the basis of:

(a) The amount of increase in cash input to a program or project from the previous year's hard match and nonrecurring items.

(b) The extent to which the current cash input exceeds the previous three years average input, less the previous year's hard match and non-recurring items.

(3) *Salaries of Personnel.* Salaries of personnel transferred to a grantor agency project may not be considered hard match unless the vacancies created by their transfer are filled by personnel whose salaries are from appropriated State or local funds.

e. *Timing of Matching Contributions.* Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full grantee and/or subgrantee matching share must be oligated by the end of the period for which the Federal funds have been made available for obligation under an approved program or project. Grantees and subgrantees receiving State appropriate buy-in funds as part of their match may wish to obligate those funds earlier on in the project in order to prevent their lapsing after completion of the State's fiscal year.

f. *Records for Match.* All grantees of grantor agency funds must maintain records which clearly show the amount and the timing of all matching contributions. In addition, if a program or project has included within its approved budget contributions which exceed the required matching portion, the grantee must maintain records of them in the same manner as he does the grantor agency funds and required matching shares. For all block C and E funds and for JJ formula funds, the CJC has primary responsibility for compliance with the requirements. For all categorical funds, including JJ Special Emphasis grants, the grantee and the subgrantee or contractural recipient have shared responsibility for ensuring compliance with the requirements regarding matching shares.

g. *Waiver of Match for Indian Applications.* Sections 301(c) and 306 of Title I provide that grantor agency programs or projects to Indian tribes or aboriginal groups may be awarded with no required matching contribution where it is the case that the group does not have sufficient funds available to meet the matching share. Lists of Indian entitled to apply for this waiver are available from the U.S. Department of Interior. The following policies and procedures establish the process to be employed in seeking these special waivers.

(1) *Letter of Certification.* Request for a waiver of matching funds from Indian tribes or other aboriginal groups must be supported by a formal letter of certification stipulating that match for the Indian application cannot be provided. This certification must be executed in name and title by the recognized Indian leader(s) of the applicant Indian group.

(2) *Fiscal Year Waivers.* The grantor agency may at its discretion delegate the authority to grant waivers to a CJC. This may cover some or all of the Indian entities in a State. The waiver authority permits the CJC to approve all applications at 100 percent funding from Indian entities during the fiscal year, provided that a certification is obtained from each application and forwarded to the grantor agency in Washington. Applications for fiscal year waivers must be supported by a statement from the CJC Director, and approved by the Governor of the State, that each Indian entity covered by the application is unable to provide non-Federal funding for that fiscal year.

h. *One Third Personnel Limitation.* As required by Section 301(d) of the Crime Control Act, not more than one-third of any action grant made under Part C of Title I may be expanded for compensation of police and other regular law enforcement personnel exclusive of time engaged in training programs or in research, development, demonstration, or other short-term projects (6 months or less). It is intended that the use of part C block grant funds for the salaries of personnel whose primary responsibility is to provide assistance, maintenance, or auxiliary components of law enforcement agencies shall not be subject to the limitations set forth in Section 301(d). Expenditures above this one-third limit are not allowable as a charge on Federal funds but may be allowed as a grantee contribution.

(1) *Applicability.* Subgrantees may individually provide for expenditure of more than one-third of Federal funds for compensation of personnel provided that the combined expenditures for all programs and projects supported by the block grant ot the CJC do not exceed the limit. This limitation is applicable to categorical grants on an individual basis.

(2) *Exclusions.* In applying the "one-third" limitation, only the wages and salaries of grantee or subgrantee employees need be counted, and not fees or other remuneration of non-employee consultations or personnel costs of private or educational institution contracts providing services to grantees or subgrantees. The limitation does not apply to personnel compensation under Part B planning grants. Replacement or substitute costs for personnel in training are not within the statutory exclusion, but, where Federal funds are used to reimburse the subgrantee for compensation of personnel "undergoing training programs," this is within the exclusion and the resulting savings can often be applied toward replacement manpower.

(3) *Records.* The CJC must maintain records which demonstate how it is meeting the one-third limitation for law enforcement and criminal justice personnel. The method used shall be considered an integral part of its offical records.

(4) *Suggested Format.* The following is offered as a suggested format for documenting the one-third limitation.

(a) Estimated total personnel compensation in all Part C programs, exclusive of time spent in training, research and development of short-term projects: (a) $———.

(b) Estimated total law enforcement and criminal justice personnel compensation in all Part C programs, exclusive of time spent in training, research and development or short-term projects: (b) $———.

(c) Estimated total increases in personnel compensation of implementing agencies, exclusive of same compensation items included in (b): (c) $———.

(d) Estimated expenditures from Federal share for the increased personnel compensation provided in (a) above, exclusive of the same compensation items in (b) and not to exceed 50 percent of (c): (d) $——

i. *Non-Supplanting of State or Local Funds.* (1) The Act prohibits the use of Federal funds to supplant State or local funds. Each State must develop procedures to comply with this requirement and maintain these procedures as part of the official records of the State.

(2) Requirement procedures shall account for the non-supplanting requirement in the following manner: (a) *Certification.* Certifications shall be in writing and should be to the effect that Federal funds have not been used to replace State or local funds that would, in the absence of such Federal aid, be made available for law enforcement and criminal justice. Such certification may be incorporated in prescribed grantee reports and should be provided not less than annually.

(b) *Documentation.* Certifications shall be held in grantee's files for the purpose of Federal audit. Any certifications requiring special explanations because of reduced or unchanged local investment in law enforcement shall be forwarded to the grantor agency for informational purposes.

(c) *Combinations of Local Units.* Where grants are awarded to a combination of local government units, certifications should cover all participating units and their combined law enforcement expenditures.

j. *State Assumption of Costs.* CJCs must demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded by the grantor agency (Crime Control Act only) after a reasonable period. The grantor normally defines a "reasonable period" as three years. Accordingly, each State must establish procedures by which subgrantees will specify, in the last year of their grants, what plans have been made for eventual incorporation of some or all project activities into the operation of State or local governmental agencies.

19. *Regulatory requirements.*—a. *In addition to statutory requirements,* the award and administration of grant and subgrant funds are subject to applicable regulations and policies that have been promulgated by the Office of Management and Budget (OMB), the General Accounting Office and the U.S. Treasury. Grantee, subgrantee and contractor organizations should maintain, or have access to, copies of documents which present additional detailed guidance relating to the award and administration of grants, subgrants, and contracts. The following documents are particularly important to grantees, subgrantees and contractors in the award and administration of funds. Contribution ratios of grantor agency programs are unaffected by the documents and, where authorizing legislation contains explicit restrictions on the reimbursement of particular costs, such restrictions are also unaffected.

(1) *Code of Federal Regulations (Titles 28 and 41).* These Titles set forth grantor agency program and administrative regulations applicable to all Federal grants.

(2) Federal Register. This publication is issued to announce major proposed and final rule making issuances, including announcements of new programs and regulations, as well as policies issued by the Office of Management and Budget and the Federal grantor agency.

(3) *Federal Management Circular (FMC) 73–6,* Coordinating Indirect Cost Rates and Audits at Educational Institutions.

(4) *Federal Management Circular (FMC) 73–7,* Administration of College and University Research Grants.

(5) *Office of Management and Budget (OMB) Circular A–21,* Cost Principles for Educational Institutions. This circular establishes principles for determining costs applicable to grants

and contracts with educational institutions. (Refer to appendix 1)

(6) *Federal Management Circular (FMC) 74–4,* Cost Principles Applicable to Grants and Contracts with State and Local Governments. This circular establishes principles and standards for determining costs applicable to grants and contracts with State and local governments. (Refer to appendix 2)

(7) *Office of Management and Budget (OMB) Circular A–73 (revised),* Audit of Grants-in-Aid to State and Local Governments. This circular sets forth policies to be followed in the audit of Federal grants-in-aid to State and local governments.

(8) *Office of Management and Budget (OMB) Circular A–102,* Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. This circular establishes standards for the administration of grants to State and local governments. (Refer to appendix 3)

(9) *Office of Management and Budget (OMB) Circular A–110,* Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations. This circular establishes standards for the administration of grants to institutions of Higher Education, Hospitals and other non-profit organizations. (Refer to appendix 4)

(10) *Office of Management and Budget (OMB) Circular A–111,* Jointly Funded Assistance to State and Local Governments and Non-Profit Organizations. This circular establishes policies and procedures to be followed in the joint funding of related programs of Federal assistance to State and local governments and non-profit organizations.

(11) *OMB Circular on Cost-Principles for Non-Profit Organizations* is under development. Appendix 5 is being reserved for this circular.

b. Copies of the documents referred to in paragraph 19a(1) through 19a(10) are available in booklet form from the Office of Administration, Publications Unit, Room G 236, New Executive Office Building, Washington, D.C. 20503.

20. *Administrative requirements.*—a. *Applicability of Circulars.* The basic grantor agency focus in applying the grant administration practice and the allowability of costs principles contained within the circulars referenced above is the extent to which they contribute to the purposes and execution of the grantor agency programs. Accordingly: (1) Grantees will each bear their appropriate share of allocated costs as allowable, not only under the appropriate circular, but also under State and local laws or regulations and grantee practices.

(2) Grantees and their subgrantees will accept responsibility for expending and accounting for Federal funds in a manner consistent with: (a) Pertinent agreements and project and/or program objectives, and

(b) Policies and procedures that apply uniformly both to federally assisted and other activities of the grantee or subgrantee.

(3) Grantees and their subgrantees have the primary responsibility for employing whatever form of organization and management techniques necessary to assure proper and efficient administration and cost allocation, including accounting, budgeting, reporting, auditing and other review controls.

(4) Grantees and subgrantees' costs pertinent to carrying out unrelated functions (i.e., unrelated to law enforcement programs receiving grant support) are not allowable and there can be no recognition of "profit" or other increase above true costs to grantees or subgrantees in executing Federal grants.

b. *Other Administrative Requirements.* (1) *Prior Approval of Cost Items.* Written approval of grant and subgrant costs is required for specific cost items. This prior approval responsibility is vested in either the CJCs, entitlement jurisdictions or the grantor agency, depending upon source of funds and the amount of the cost. Those costs generally requiring grantor agency, CJC, or entitlement jurisdiction approval are discussed in detail in Chapter 5.

(2) *Reprogramming of Funds.* (a) The movement of funds from one program to another program by the CJC contained in an approved State Comprehensive Plan (latest approved Attachment A), which results in a cumulative increase or decrease in the budgeted total cost for any program by more than 25 percent must be approved by the grantor agency prior to the expenditure of funds. Such reprogramming will be deemed an amendment of the grant application and award and requires prior grantor agency concurrence. The grantor agency will consider retroactive approval only in extremely unusual circumstances. When such retroactive approval is not considered warranted, the grantor agency will exercise its option to reduce the grant by the amount of the unauthorized reprogrammed funds. The 25 percent reprogramming limit will be effective as of the date of this guideline manual and will apply to active block planning and action and juvenile justice formula funds. Reprogramming of FY 1980 and prior years block funds into programs for which the sole or primary purpose is the purchase of equipment or hardware or into programs for new construction is prohibited.

(b) Regardless of the amount, prior OJJDP approval is necessary for any reprogramming of Crime Control funds out of juvenile justice programs. The OJJDP should be notified of any reprogramming of funds which increases the juvenile justice maintenance of effort share for a specific state.

(3) *Funds Availability.* Costs of service provided by the State or direct outlays by the State for or on behalf of local units of government may not be charged as funds made "available" to local units without the specific approval of both the State Agency's supervisory board and the local units to which the services will be made available. A unit of general local government means any city, county, township, town, borough, parish, village or other general purpose political subdivision of a State or an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior.

(4) *Redesignation of Fund Year.* State Agencies are prohibited from changing block action, formula grant and subgrant awards, and their related obligations and expenditures, from one fiscal year to another fiscal year. Refer to the effective edition of Guideline M7100.4, "Block and Juvenile Justice Formula Grant Administration Requirements," for details.

(5) *Comingling of Funds.* The accounting systems of all grantees and subgrantees must insure that grantor agency funds are not comingled with funds from other Federal agencies. In addition, grantees and subgrantees are prohibited from comingling funds on either a program-by-program basis or a project-by-project basis. Funds specifically budgeted and/or received for one project cannot be used to support another. Where a grantee or subgrantee's accounting system cannot comply with this requirement, it is recommended that the grantee or subgrantee establish subsidiary accounts or a system to provide adequate fund accountability for each project which it has been awarded.

21–23. *Reserved.*

Chapter 3. Award, Payment and Financial Reporting Requirements

24. *General.*—All grantees/subgrantees of the Federal grantor agency are bound by uniform award, payment and financial reporting requirements. The purpose of this chapter is to prescribe the procedures which must be followed by grantees/subgrantees in order to properly initiate

grants, receive Federal advances or reimbursements for expenditures, and report on grant activities. In interpreting these procedures, however, grantees/subgrantees should recognize that the wide range of criminal justice programs and activities sponsored by the grantor agency results in reporting requirements and forms which may vary from one type of grantee/subgrantee to another (e.g., a CJC receiving formula D funds versus a non-profit organization receiving categorical funds).

25. *Conditions of award and acceptance.*—a. *Statement of Award.* After completion of the internal review process, grant applications designated for approval are formally awarded by the grantor agency in the form of an issuance of an Award Statement. This statement identifies the Grantee and Subgrantee (if applicable), the Period of Award, the Type and Amount of Federal Funds and the Award Number. As appropriate, Special Conditions are included which the grantor agency feels the grantee/subgrantee must meet if he accepts the award. This award notification process is applicable to all grant applications approved for award. All correspondence concerning the award shall refer to the designated Award Number shown on the Award Statement.

b. *Acceptance Procedures.* The Award Statement constitutes the operative document obligating and reserving Federal funds for use by the grantee/subgrantee in execution of the program or project covered by the award. Such obligation may be terminated without further cause, however, if the grantee/subgrantee shall fail to affirm its timely utilization of the grant by signing and returning the signed acceptance to the grantor agency WITHIN 45 DAYS from the date of award. No Federal funds shall be disbursed to a grantee/subgrantee until the signed acceptance has been received by the grantor agency.

c. *Special Cancellation Conditions for Subgrants.* The CJC must condition each Parts C and E block action and Part D and JJ formula award to include the following cancellation procedures.

(1) *Commencement Within 60 Days.* If a project is not operational within 60 days of the original starting date of the grant period, the subgrantee must report by letter the steps taken to initiate the project, the reasons for delay, and the expected starting date.

(2) *Operational Within 90 Days.* If a project is not operational within 90 days of the original starting date of the grant period, the subgrantee must submit a second statement to the CJC explaining the implementation delay. Upon receipt of the 90-day letter, the CJC may cancel the project and redistribute the funds to other project areas. The CJC may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period. When this occurs, the appropriate subgrant files and records must so note the extension.

26. *Payment of grant funds.*— a. *Applicability.* The material contained in this section deals with the payment of funds to all grantees. The procedures and regulations discussed are applicable to all grant funds.

b. *Annual Requirement Under $120,000.* Grantees, whose annual fund requirement for all of the types of grantor agency grants is less than $120,000, receive Federal funds on a "Check Issued" basis. Upon receipt, review and approval of a REQUEST FOR ADVANCE OR REIMBURSEMENT (Form H-3) by the grantor agency, a Voucher and Schedule for Payment is prepared for the amount approved. This schedule is forwarded to the U.S. Treasury requesting issuance and mailing of the check directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs and submitted at least monthly. The H-3 Form, along with the instructions for its preparation, are contained in appendix 6.

c. *Annual Requirement Over $120,000.* Grantees, whose annual fund requirement for all types of agency grants exceeds $120,000, generally receive Federal funds by utilizing the "Letter of Credit" procedure. This funding method is a cash management process prescribed by the U.S. Treasury for all major grant-in-aid recipients. All CJCs must utilize the Letter of Credit by virtue of the funding levels contemplated for them under the Act. All forms and instructions for using this method of payment are contained in appendix 7.

d. *Check Issuance.* All checks drawn for the payment fund requests, either under the "Check Issue" or the "Letter of Credit" process, are prepared and disbursed by the U.S. Treasury and not by the grantor agency.

e. *Termination of Advance Funding.* When a grantee organization receiving cash advances by letter of credit or by direct Treasury check demonstrates an unwillingness or inability to attain program or project goals or to establish procedures that will minimize the time elapsing between cash advances and disbursements; cannot adhere to guideline requirements or special conditions; engages in the improper award and administration of subgrants or contracts, or is unable to submit reliable and/or timely reports, the grantor agency may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by the direct Treasury check method to reimburse grantee for actual cash disbursements.

27. *Applicability of cash requirements to subgrantees.*—a. *Principal of Minimum Cash on Hand.* Fund requests from subgrantees create a continuing cash demand on grant balances of CJCs. Grantees (CJCs) should keep in mind that idle funds in the hands of subgrantees will impair the goals of the Federal Letter of Credit System. Accordingly, subgrantee requests for funds should conform to substantially the same "as needed" timing as that for CJCs. Grantees who award subgrants, or their fiscal agents, must develop procedures for the disbursement of funds to subgrantees that provide funds as and when actually needed.

b. *Minimum Payments to Subgrantees.* Minimum cash payments of $5,000 to subgrantees, which are consistent with the minimum letter of credit drawdown amount, may be imposed for administrative ease and economy.

28. *Obligation of funds.* a. *Federal Obligation Process.* Once a grant award has been signed by the grantor agency, the amount of the award is considered an obligation of the Federal government and is recorded as such in the grantor agency accounting system. Appropriated funds are thereby reserved against the grant until all monies are expended by the grantee/subgrantee or, in case of non-utilization of funds within statutory or other time limits, appropriated funds revert to the grantor agency through deobligation of the unused balance.

b. *Grantee and/or Subgrantee Obligation Process.* Funds are considered obligated by a grantee/subgrantee when a legal liability to pay determinable sums for services or goods is incurred, which will require payment during the same or future period.

c. *Obligation and Expenditure Deadline Dates.* Figure 3-1 represents the maximum deadline for obligation and expenditure of Part B planning funds, Part C and E block action funds, JJ formula funds and Part D formula funds.

Figure 3-1.—*Maximum Obligation/Expenditure Deadline Dates*

	Deadlines	Part B planning	Part C and E action	JJ formula	Part D formula
Fiscal year:					
1977	Obligated		12/31/77	9/30/79	9/30/79
	Expended		3/31/78	12/31/79	12/31/79
1978	Obligated		12/31/78	9/30/80	9/30/80
	Expended		3/31/79	12/31/80	12/31/80
1979	Obligated		9/30/80	9/30/81	9/30/81
	Expended		12/31/80	12/31/81	12/31/81
1980	Obligated		12/31/80	9/30/82	9/30/82
	Expended		3/31/81	12/31/82	12/31/82
1981	Obligated				9/30/83
	Expended				12/31/83
1982	Obligated				9/30/84
	Expended				12/31/84
1983	Obligated				9/30/85
	Expended				12/31/85

Note: Fiscal year 1979 Planning Grant Period Extension from Dec. 31, 1979 to Sept. 30, 1980.

29. *Grant periods, obligation, expenditure and extension information.*—a. *Grant Award Periods.* (1) *Part B Block Planning Funds for FY 1976 and subsequent years* have a 15 month planning grant period. This period begins October 1 of a fiscal year and ends December 31 of the following fiscal year.

(2) *Part C and E Block Action, JJ Formula Funds for FY 1976 and subsequent years, and Part D Formula Funds* are awarded for the fiscal year in which the grant is awarded (effective the date of the grant award) plus the next two full fiscal years.

(3) *Categorical Grants* are awarded for a specified time, and a particular grant period is established for each categorical award (usually 12 or 18 months).

b. *Obligation of Funds.* (1) *Part B Block Planning Funds* MUST BE OBLIGATED BY THE CJC within the grant period.

(2) *Part C and E Block Action, JJ Formula, Part D Formula and Categorical Funds* MUST BE OBLIGATED BY THE GRANTEE/SUBGRANTEE within the grant period.

(3) *Any funds in paragraph 29b(1) and (2)* not properly obligated within the grant period will lapse and revert to the grantor agency.

c. *Expenditure of Funds.* Part B Block Planning Part C & E Block Action, Part D Formula, JJ Formula and Categorical Funds which have been properly obligated by the end of the grant period will have 90 days in which to be liquidated (expended). Any funds which are not liquidated at the end of the 90-day period will lapse and revert to the grantor agency.

d. *Grant Award Extensions.* (1) *Part B Funds for FY 1976 and subsequent years.* As a matter of policy, the obligation and expenditure deadlines for Part B funds shall not be extended. (Refer to G 4100.5 for an exception for FY 1979 planning funds.)

(2) *Part C and E Block Action, Part D Formula and JJ Formula Funds.* (a) FY 1978 and prior years funds can be granted an extension of the grant period (both obligation and expenditure) upon a written request for an extension fully justifying the need/reason for the extension. This extension must be approved by the grantor agency.

(b) FY 1979 and subsequent years funds can be granted an extension of the grant period (both for obligation and expenditure) for a program or set of programs if a written request is received by the grantor agency at least 180 days before the end date of the grant. The CJCs must meet the required extension criteria and the request must be approved by the grantor agency. (Refer to the effective edition of G 7100.4 for information on extension criteria and limitations.)

(3) *Categorical Funds* can be granted an extension (both for obligation and expenditure) upon receipt of a written request for an extension stating the need for the extension and indicating additional time required. This request must be submitted at least 40 days before the end date of the grant and requires approval by the grantor agency. The maximum extension allowable for any project is 12 months and retroactive extension of project periods cannot be considered.

30. *Program and financial requirements.* a. *Program Reporting.* These reports are prepared in a narrative fashion in order to present information relevant to the performance of a plan, program, or project. (1) *Narrative Report for Planning.* This is the Annual Planning Grant Application and its attachments. In addition to describing anticipated planning activities for the forthcoming period, it serves as a performance report for the previous planning period. Reporting in this manner is applicable to CJC recipients of Part B planning funds. Instructions for the preparation of this report are contained in the PLANNING, ACTION, AND JUVENILE JUSTICE AND DELINQUENCY PREVENTION GRANT APPLICATION KIT. The KIT is produced annually and is available by contacting the grantor agency.

(2) *Narrative Report for Part C & E Block Action and JJ Formula Funds.* This reporting requirement is met through the submission of the Annual Comprehensive Plan and its updates. The Comprehensive Plan serves as the performance report for previously planned activities utilizing Part C, Part E and JJ formula funds. Reporting in this manner is applicable to CJCs of block (Part C & E) and JJ formula funds. States which have received multi-year planning status through the approval of a full Comprehensive Plan in the years 1978 and 1979 may submit only a plan update document in accordance with an approved three year cycle. This reporting requirement for formula funds for FY 1980 and subsequent years will be met by submission of an annual Performance Report. Instructions for the preparation of the Comprehensive State Application are contained in the effective edition of Guideline Manual 4100.1 and in the PLANNING, ACTION, AND JUVENILE JUSTICE AND DELINQUENCY PREVENTION GRANT APPLICATION KIT. Both documents are available by contacting the grantor agency.

(3) *Categorical Narrative Progress Report (Form 4871/1).* This report is prepared on a calendar quarter basis and is used to describe the performance of activities or the accomplishment of objectives as set forth in the approved grant application. Reporting in this manner is applicable to all categorical grantees/subgrantees. The interim reports are due on the 30th day following the end of each calendar quarter and are designed to supply information on the activities and accomplishments of the grant during that quarter. Exception—the first report is due 30 days after the end of the first FULL calendar quarter. The FINAL report is due 90 days after the end date of the grant. The interim report for the last calendar quarter may also serve as the final report if it includes, as a minimum, a summary statement of progress toward the achievement of the originally stated aims, a list of the significant results and a list of publications resulting from the grant. An original and two copies must always be submitted using Form 4871/1. Grantees receiving a categorical grant should forward these reports directly to the grantor agency. All subgrantees receiving their award through a CJC must send their progress reports to the CJC for forwarding to the grantor agency. Under these circumstances, an original and three copies should be sent to the CJC in order for the CJC to retain one copy for its files. Upon completion

of the grant period, a final report is due within 90 days. Copies of the report form with instructions for filling it out are forwarded to grantees/subgrantees at the time of award as part of the Award Package.

(4) *Special Reports.* In the review and approval process for plans and applications, it is sometimes necessary for the grantor agency to require that special or unique conditions be met in order for the agency to make an award. These Special Conditions will vary from grant to grant; however, acceptance of the award by the grantee/subgrantee constitutes an agreement that they will be met either prior to initiating or during the course of the grant period. When this is the case, Special Reports on the meeting of these conditions are required for submittal to the grantor agency. They are prepared free form; however, the timing, content and process for their submittal are detailed in the Award Package.

b. *Financial Reporting.* In order to obtain financial information concerning the use of Federal funds, the grantor agency requires that grantees/subgrantees of these funds submit timely reports for review. These reports are consistent with the manner of reporting established by OMB Circular Nos. A–102 and A–110 and the Letter of Credit requirements established by the U.S. Treasury Department. (1) *Financial Status Report (H–1).* (a) This report is required from all grantees for each quarter on a calendar-quarter basis. It is designed to reflect financial information relating to Federal and non-Federal obligations and outlays. A separate report is required for each grant EXCEPT that PART C BLOCK (including Small State Supplements), PART E BLOCK, PART D FORMULA and JJ FORMULA grants may be combined on one H–1 report for each fiscal year. However, in these instances, information relating to each type of funds must be identified separately. A copy of the H–1 report, Financial Status Report, along with detailed instructions for its preparation and reporting due dates are contained in appendix 8, Attachment 1.

(b) In lieu of using the standard H–1 Report, grantees may satisfy the financial reporting requirements by completing an H–1 Turnaround Document. These documents are facsimiles of the H–1 Financial Status Reports created with information extracted from grantor agency's computer files and sent directly to each grantee. Pertinent information such as grantee name and address, grant number and the previously submitted financial information (if any) is printed on the form by the computer. A copy of the H–1 Turnaround Document, a long with detailed instructions for its preparation, are contained in appendix 8, Attachment 2.

The CJCs must report to the grantor agency the total Federal funds subgranted to both State agencies and local governments (including entitlement jurisdictions) for the grant being reported. This information is required on all block Part C and E, Part D formula and Juvenile Justice formula grants. This requirement shall be submitted in the Remarks Section, Item 12, of the H–1 Report or the Remarks Section of the Turnaround Document. The total subgranted figure reported in the Remarks Section should agree with the subgrant award information submitted to PROFILE.

(2) *Request for Payment on Letter of Credit and Status of Funds Reports (SF–183).* This report is applicable to grantees who are funded under the Letter of Credit system. It is prepared each time a grantee organization requests a drawdown of funds under its Letter of Credit. The reporting format is illustrated and explained in appendix 7, Figure 3.

(3) *Daily Status of Federal Funds Report.* This report is applicable to grantees who utilize the Letter of Credit system to obtain Federal funds. It is required on a selective basis as determined by the U.S. Treasury's request with grantee organization(s) who are to prepare the report(s) for the month(s) specified. The reporting format is illustrated and explained in appendix 7, figure 5.

(4) *Request for Advance or Reimbursement (Form H–3).* This report is appicable to all grantees who are funded on a "Check-Issued" basis. It is required to document the status of Federal cash when a grantee requests an advance or reimbursement of funds. Refer to appendix 6 for sample of form.

31. *Specific Subgrant Information Reporting (Profile) Requirements.*—a. *Background.* Since the passage of the legislation, thousands of different types of projects have been funded each year by the grantor agency and the CJCs representing the 50 states and territories. As the number and complexity of activities supported by the grantor agency has grown, so also has the need for providing more detailed information concerning the disposition of funds. The agency's Grant Program File (PROFILE) is designed for the automated storage and retrieval of information describing our programs. PROFILE is operated by agency personnel, and their responsibilities include maintenance of the PROFILE data base from information provided by CJCs and grantor agency project monitors, and the dissemination of information in response to requests from the PROFILE users, Congress, Public Interest Groups and concerned citizens relevant to the agency program.

b. *Participation and Use.* While the PROFILE system is used extensively within the grantor agency, participation in, and use of the system by CJCs and entitlement jurisdictions, is on a voluntary basis. CJCs and entitlement jurisdictions who elect to become users transmit detailed subgrant information to the grantor agency on a monthly basis. This information may be transmitted in either a hardcopy manual format, by a computer tape, or by having a computer communicate directly with the grantor agency computer. The National Criminal Justice Association has developed forms and formats for participating in this system. Upon receipt, the information is entered into the PROFILE data base and is available for use by the CJCs, the entitlement jurisdictions, and the grantor agency. Using the information contained in the data base, the following types of reports may be produced for use by the participants: (1) Standard Reports.

(2) Periodic Reports.

(3) Ad hoc Reports.

32–34. *Reserved.*

Chapter 4. Accounting Systems and Financial Records

35. *General.*—a. *Requirement.* All grantees, subgrantees, contractors and other organizations under grants, contracts, cooperative agreements or purchase of service arrangements are required to establish and maintain accounting systems and financial records to accurately account for funds awarded to them. These records shall include both Federal funds and all matching funds of state, local and private organizations.

b. *Purpose.* The purpose of this chapter is to establish accounting system requirements and to offer guidance on procedures which will assist all grantees/subgrantees in: (1) Complying with the statutory requirements for the awarding, distribution and accounting of funds.

(2) Complying with the regulatory requirements of the grantor agency, the Office of Management and Budget, and the U.S. Department of the Treasury for the financial management and disposition of funds.

(3) Generating financial data which can be used in the planning, management and control of programs.

(4) Facilitating an effective audit of funded programs and projects (see chapter 8 of this guideline manual).

c. *References.* The following regulations, directives and reports both supplement the detailed requirements of this chapter for accounting systems and financial recordkeeping and provide additional guidance on how these requirements may be satisfied. (1) *Office of Management and Budget Circular A-102* (revised), Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. (Refer to appendix 3.)

(2) *Office of Management and Budget Circular A-110* (revised), Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations. (refer to appendix 4.)

38. *Supervision and Monitoring Responsibilities.*—a. *Grantee Responsibilities.* All grantees receiving direct awards from the grantor agency are responsible for the management and fiscal control of all funds. This includes responsibility for the accounting of receipts and expenditures, the maintaining of adequate financial records and the refunding of expenditures disallowed by Federal or State audits.

b. *Responsibilties for Accounting by Subgrantees.* Where the conduct of a program or one of its components is delegated to a subgrantee, contractor or other organization via an approved comprehensive plan, grant award or other means of prior approval by the grantor agency, the grantee is, nevertheless, responsible for all aspects of the program; this includes proper accounting and financial recordkeeping by the subgrantee. These responsibilities also include: (1) *Reviewing Financial Operations.* Grantees should be familiar with, and periodically monitor, their subgrantee's financial operations, records, systems and procedures. Particular attention should be directed to the maintenance of current financial data.

(2) *Recording Financial Activities.* The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the books of the grantee in summary form. Subgrantee expenditures should be recorded on the books of the grantee, or evidenced by report forms duly filed by the subgrantee. Non-Federal contributions applied to programs or projects by subgrantees must likewise be recorded, as should any program income resulting from program operations.

(3) *Budgeting and Budget Review.* The grantee should ensure that each subgrantee prepares an adequate budget on which its award commitment will be based. The detail of each project budget should be maintained on file by the grantee.

(4) *Accounting for Non-Federal Contributions.* Grantees will ensure, in those instances where subgrantees are required to furnish non-Federal matching shares, that the requirements, limitations and regulations pertinent to non-Federal contributions are applied.

(5) *Reporting Irregularities.* Grantees and their subgrantees are responsible for reporting promptly to the grantor agency the nature and circumstances surrounding any financial irregularities discovered, as specified in the effective edition of Guideline 7140.2, Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities.

37. *Elements of Accounting Systems—Special Grantor Agency Needs.*—Funds may be awarded as block grants, formula grants, or categorical grants. The various financial requirements and formulas of the grantor agency's programs, as well as the need for grantees to separately account for individual awards, require a special program account structure extending beyond normal classification by type of reciepts, expenditures, assets and liabilities. a. *Block and Formula Grant Accounts.* To properly account for block and formula grant awards, CJCs should establish and maintain program accounts which will enable the separate identification and accounting for the: (1) Planning grant funds applied to each standard budget category included within each approved planning grant application;

(2) Planning grant funds "passed through" to local programs and projects;

(3) Planning grant funds used for contracted planning services or assistance by non-governmental organizations;

(4) Action grant funds applied to each action program included within each approved comprehensive plan;

(5) Part C action grant funds "passed through" to local programs and projects;

(6) Part C action grant funds used for the compensation of police and other regular law enforcement and criminal justice personnel;

(7) Aggregate State funds provided as the "buy-in" for Part B planning and Part C action grants;

(8) JJ formula funds expended through programs of local government;

(9) JJ formula funds utilized to develop a State plan and to pay that portion of expenditures which are necessary for administration;

(10) Part D formula funds (action) applied to each action program included within each approved application;

(11) Part D formula funds (administrative) utilized for administrative purposes; and,

(12) Source, type and timing of matching contributions provided under each planning, action, Part D formula and JJ formula grant.

b. *Categorical Grant.* To properly account or categorical grant awards, all grantees should establish and maintain program accounts which will enable, on an individual basis, the separate identification and accounting for the: (1) Receipt and disposition of all funds;

(2) Funds applied to each budget category included within the approved grant;

(3) Expenditures governed by any special and general provisions;

(4) Non-Federal matching contribution, if required; and

(5) Funds used for the compensation of police and other regular law enforcement and criminal justice personnel.

38. *Accounting System.*—a. *The grantee is responsible for* establishing and maintaining an adequate system of accounting and internal controls for itself and ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system is considered as one which: (1) Presents and classifies projected historical cost of the grant as required for budgetary and evaluation purposes;

(2) Provides cost and property control to assure optimal use of grant funds;

(3) Controls funds and other resources to assure that the expenditure of funds and use of property are in conformance with any general or special conditions of the grant;

(4) Meets the prescribed requirements for periodic financial reporting of operations; and

(5) Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

b. *For details on an accounting system,* refer to appendix 9.

39. *Total Cost Budgeting and Accounting.*—Accounting for all funds awarded by the grantor agency shall be structured and executed on a "total program cost" basis. That is, total program costs, including Federal funds, State and local matching shares, and any other fund sources included in the approved project budget shall be the foundation for fiscal administration and accounting. Grant applications and financial reports will always require budget and cost estimates on the basis of total costs.

40. *Maintenance and Retention of Records.*—In accordance with OMB Circulars A–102 and A–110, all financial records, supporting documents, statistical records and all other records pertinent to a grant, subgrant or subcontract shall be retained by each organization paticipating in a program or project for at least three years for purposes of Federal examination and audit. State or local governments may impose record retention and maintenance requirements in addition to those prescribed in this chapter. a. *Coverage.* The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

b. *Retention Period.* The three year retention period starts from the date of the submission of the final expenditure report or for grants which are renewed annually, from the date of the submission of the annual expenditure report. Exceptions to the three-year requirement, such as for records nonexpendable property acquired with grant funds and for grants having an audit in process, are contained in Attachment C of both OMB Circulars A–102 and A–110.

c. *Maintenance.* Grantees/subgrantees are expected to see that records of different Federal fiscal periods are separately identified and so maintained that information desired can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principle office, a written index of the location of records stored should be on hand and ready access should be assured.

41. *Cash Depositories.*—Grantees/subgrantees of Federal funds shall deposit these funds in a bank with FDIC coverage and the balance exceeding the FDIC coverage must be collaterally secure. Federal regulations do not require physical segregation or the establishment of any eligibility requirement for cash depositories. Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees shall be encouraged to use minority banks (banks which are owned at least 50% by minority group members).

42. *Project Related Income.*—Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income. The policies governing the disposition of the various types of project-related income are listed below. (For specific requirements and procedures on project-related income earned on grants/subgrants whose primary function is the acquisition of stolen goods and property, refer to appendix 10, Guideline on the Revolving Fund.) a. *Interest.* In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577), the States and any agency or instrumentality of a State, including State institutions of higher education and State hospitals shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through the states, the subgrantees are not held accountable for interest earned on advances of project funds. Also, Tribal organizations (pursuant to sections 102, 103 and 104 of the Indian Self Determination Act (P.L. 93–638) are not held accountable for interest earned. All other grantees/subgrantees shall remit such interest to the grantor agency, agency, except where governing programmatic regulations indicate otherwise. In this respect, grantees and subgrantees shall so order their affairs to ensure minimum balances in their respective grant cash accounts.

b. *Program Income.* (1) *Sale of Property*—the policy and procedures governing the handling of proceeds from the sale of real and personal property purchased with grant funds is contained in chapter 6, paragraph 88 of this guideline manual.

(2) *Royalties*—the grantee/subgrantee shall retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise or a specific agreement governing such royalties has been negotiated between the grantor and the grantee. Refer to Chapter 6, paragraph 87 and Attachment N of OMB Circular Nos. A–102 and A–110 for further details.

(3) *Registration/Tuition Fees and Other*—these types of program income shall be treated in accordance with one or a combination of the following options as set forth in the project's terms and conditions. (a) Used by the grantee/subgrantee for any purposes that further the objectives of the legislation under which the project was made.

(b) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(c) If the terms and conditions of the project do not specify disposition, the grantee/subgrantee shall select one or a combination of the above options.

43–44. *Reserved.*

Chapter 5. Allowability of Costs

Section 1. Applicability

45. *General.*—This chapter deals with the rules and principles applicable in determining costs properly chargeable to Part B planning grants; Parts C and E block action grants; Part D formula grants; JJ formula grants; and all categorical grants. The rules and principles are therefore applicable to all grantees and subgrantees for grants awarded from these funds.

46. *Basic Principles.*—a. *Authority.* The material contained in this chapter is based on the standardized cost allocation and allowability principles prescribed for Federal grants-in-aid programs in Federal Management Circulars 74–4 and OMB Circular A–21, and the cost-related provisions of grantor agency legislation.

b. *Applicability.* Federal Management Circular (FMC) 74–4, (Cost Principles Applicable to Grants and Contracts with State and Local Governments) and OMB Circular A–21, (Cost Principles Applicable to Grants and Contracts with Educational Institutions) were promulgated to provide the basis and standards for a uniform approach to the problem of determining costs and also to promote efficiency and better relationships of grantees/subgrantees, and their Federal counterparts. The grantor agency has made the circulars applicable to all grantees and subgrantees, who will therefore be guided by its principles in overall administration, audit programs and actions required in making cost determinations. The basic grantor agency focus in determining or examining the allowability of costs within the Circulars 74–4 and A–21 framework will be the extent to which cost items contribute to the purpose and execution of the grant program and are so applied. It will be assumed that Federal, State and local units of government and private non-profit entities receiving funds will each bear their appropriate share of allocated cost

as allowable not only under FMC 74–4 and OMB Circular A–21 but also under State and local laws and regulations.

47. *Reserved.*

Section 2. Costs Generally Allowable

48. *General.*—This section of the chapter is responsive to points and questions which have frequently been raised concerning cost allowability. It therefore, supplements the detailed listings in FMC Circular 74–4 and OMB Circular A–21 for determining the allowability of selected items of cost.

49. *Compensation for Personal Services.* a. *Two or More Federal Grant Programs.* Where salaries apply to execution of two or more grant programs, proration of costs to each grant must be made. Written permission must be obtained from the CJC or, as appropriate, the grantor agency program office, to permit charges of salaries to one grant in cases where two or more grants constitute one identified activity or "program".

b. Extra Work. (1) A State or local government employee may be employed by a CJC or subgrantee in addition to his full-time job provided the work is performed on the employee's own time and: (a) The compensation is reasonable and consistent with that paid for similar work in other activities of State or local government;

(b) The employment arrangement is approved and proper under State or local regulations; and

(c) The time and/or services provided is supported by adequate documentation.

(2) Such employment arrangements should normally be made by the CJC or subgrantee directly with the individual (to avoid problems arising from overtime, holiday pay, night differential or related payroll regulations), unless there has been a transfer or loan of the employee for which his regular, as well as overtime, services provided are to be charged to or reimbursed by the CJC or subgrantee. Overtime and night differential payments are allowed only to the extent that payment for such services is in accordance with the policies of the CJC or unit of local government and has the prospective approval of the CJC. The overtime should be prorated among the various jobs and not charged exclusively to grantor agency funds.

(3) Payment of these premiums will be for work performed by grant or subgrant employees in excess of the established work week (usually 40 hours). Payment of continued overtime is subject to the periodic review by the CJC.

c. *Grant Purposes and Dual Compensation.* Charges of the time of State and local government employees assigned to grant programs may be reimbursed or recognized only to the extent they are directly and exclusively related to grant purposes or proper for inclusion in indirect costs bases. In no case is dual compensation allowable. That is, an employee of a unit of government may not receive compensation from his unit or agency of government and from a grant or subgrant for a single period of time (e.g., 1 p.m. to 5 p.m.) even though such work may benefit both activities.

50. *Conferences, Symposia and Workshops.*—Charges to a grant may include conference or meeting arrangements, publicity, registration, salaries of personnel, rental of staff offices and conference space, recording or translation services, postage and telephone charges, and travel expenses (including transportation and subsistence) for faculty, speakers, or participants. Each of these items, when related to grant purposes, are otherwise allowable costs under FMC 74–4 and OMB Circular A–21. Grant funds may not be used for honoraria (i.e., payments to participating individuals or guests other than for documented professional services actually rendered at reasonable compensation rates), entertainment, sports, visas, passport charges, tips, bar charges, personal telephone calls or laundry charges of participants or guests.

51. *National Guard Grants.*—(a) *Subgrants.* Any subgrants to State National Guard forces for projects related to acquisition of equipment (see paragraph 12f) or training of personnel shall meet the following requirements. (1) Such projects will be supportive of State or local law enforcement agencies and will not replace or supplant duties properly assigned to law enforcement agencies;

(2) Such projects will be directly and primarily related to civil disorders or natural disaster responses;

(3) Such funds will not duplicate or supplant funds or equipment available to State National Guard units through the Department of Defense;

(4) The State National Guard Adjutant General shall supply certifications of compliance with the above conditions.

b. *Sevice Contracts.* There are no restrictions against contracts with National Guard units for services to local or State law enforcement units, such as training or technical assistance in planning.

52. *Travel for Grant/Subgrant Employees.*—Travel costs are allowable for expenses by employees, who are in travel status on official business. Definitions for travel are: (a) *Domestic Travel* includes travel within and between Canada, the United States and its territories and possessions. Prior approval is required for domestic travel (by educational institutions) during any grant that will cause the amount identified for such travel to be exceeded by $500 or 25 percent of the approved budgeted amount, whichever is greater (refer to paragraph 67 of this guideline manual). Grantees/subgrantees may follow their own travel rates established by their organizations. If and organization does not have an established travel policy, the grantee/subgrantee must abide by the Federal travel rates.

b. *Foreign Travel* includes any travel outside of Canada and the United States and its territories and possessions. However, for an organization located outside Canada and the United States and its territories and possessions, foreign travel means travel outside that country. Prior approval is required for all foreign travel (refer to paragraph 67 of this guideline manual).

53. *Reserved.*

Section 3. Costs Requiring Prior Approval

54. *Responsibility for Prior Approval.*—Prior approval is written permission provided in advance of an act that would result in either (1) the obligation or expenditure of funds or (2) the performance or modification of an activity under a grant/subgrant project, where such approval is required. Consistent with the block grant structure of the program and the primary grant administration responsibilities vested by statute in the CJCs, the administration of regulatory cost principles and standards issued by the Federal Government is vested in the following two authorities:

a. *The Grantor Agency* reviews for approval, all costs identified in section 3 when the grantee (CJC or direct recipient of categorical grants) is the direct benefactor of the goods or services to be purchased or supplied. This also applies to costs included in CJCs, Part B budgets.

b. *The CJC* reviews for approval, all costs identified in section 3 for subgrantees of block planning, block action, Part D and JJ formula and categorical funds where the CJC is the grantee but not the implementing agency.

c. *The Entitlement Jurisdiction* reviews for approval, all costs identified in section 3 for subgrantees of block planning, block action, Part D and JJ formula and categorical funds where the entitlement jurisdiction is the grantee but not the implementing agency.

55. *Prior Cost Approval Requirement.*—This section addresses specific types of costs requiring prior approval. Written approval is required in accordance with paragraph 54a–b of this section, as defined, and for any other costs specified in FMC 74–4 and OMB Circular A–21 as "Costs Allowable With Approval of Grantor Agency" or costs which contain special limitations. Where prior approval authority for subgrantees is required throughout Section 3, it will be vested in the CJC or entitlement jurisdiction unless specifically specified as being "RETAINED BY THE GRANTOR AGENCY" as identified in paragraphs 57(2) and (3), 59a, 60b and c, 62c, 63a, 64, 66a(1) and b(2) and 67.

56. *Applicability and Procedure.*—a. *Cost Categories and Expenditure Levels.* It is not the agency's intention to require "grantor agency approval" of all charges within the listed cost categories, but only for those aspects or elements which specifically require prior approval. Also, the establishment of dollar expenditure levels in this section is intended to furnish blanket grantor agency approval for modest grant related outlays. Costs above such levels may also receive approval.

b. *Procedure for Request for Prior Approval.* Requests must be in writing and shall provide justification and an explanation to permit review of the allowability. They may be submitted: (1) Through inclusion in the budget or other component of a grant or subgrant application; or

(2) As a separate letter of written request to the CJC or, where applicable, to the grantor agency described in paragraph 54.

57. *Automatic Data Processing (ADP) and Automated Fingerprinting Equipment.*—Grants may include provisions for procurement of ADP and Automated Fingerprinting Equipment. Grant applications will be written in a manner consistent with maximum open and free competition in the procurement of hardware and services. Brand names will not normally be specified. Criminal Justice information and communication systems funded by the grantor agency shall be designed and programmed in accordance with special requirements for grants involving ADP contained in appropriate guidelines and available by request from the grantor agency. a. *Requirement.* (1) Prior approval is NOT REQUIRED for the LEASE or RENTAL of such equipment; nevertheless, assurance must be provided that leases or rentals greater than $10,000 are obtained in accordance with Federal procurement standards in Attachment O of Circular Nos. A–102 and A–110.

(2) Where the amount of the acquisition exceeds $50,000, prior approval is required for the acquisition of equipment (outright purchase, lease-purchase agreement, or other method of purchase). Such prior approval must be OBTAINED from the GRANTOR AGENCY.

(3) Prior approval is REQUIRED for both the acquisition and lease of all ADP equipment (regardless of cost) which is to be used for the processing and storage of fingerprinting images. Prior approval must be obtained from the GRANTOR AGENCY.

(4) A review of an ADP equipment procurement shall be required and should include a review of the description of the equipment to be purchased. This review shall be documented in writing for the file and shall require the reviewing official (grantor agency, CJC or entitlement jurisdiction) to certify that the procurement is consistent with the following requirements: (a) The ADP equipment of the type to be purchased was identified within the grant application and is necessary and sufficient to meet the project goals.

(b) The ADP equipment procurement is in compliance with existing Federal/grantor agency, state, and local laws and regulations.

(c) A purchase/lease comparison has been conducted demonstrating that it is more advantageous to purchase rather than lease the ADP equipment under consideration.

(d) If software development is involved, it has been demonstrated that computer software already produced and available will not meet the needs of the grant.

(e) If the ADP equipment procurement is to be sole-source, documentation has been submitted to justify the action.

(5) An ADP Procurement Review Form (Suggested Format-Sample Only) is included in this guideline manual as appendix 11. This form is a recommended form for documenting an ADP equipment procurement review and the form is shown as a SAMPLE ONLY.

b. *Definition.* Automatic data processing equipment is defined in 41 CFR, Subpart 1–4.1102–1 as "general purpose commercially available, mass produced automatic data processing components and the equipment systems created from them regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or application and are not specifically designed (not configured) for any specific application:" This definition includes: (1) Digital, analog or hybrid computer equipment;

(2) Auxiliary or accessorial equipment such as data communications terminals, source data automation recording equipment (e.g., optical character recognition equipment, and other data acquisition devices), and data output equipment, (e.g., digital plotters, computer output microfilms, etc., to be used in support of digital, analog, or hybrid computer equipment; whether cable connected, wire connected, radio connected or self-standing, and whether selected or acquired with a computer or separately;

(3) PCAM (Punch Card Accounting Machines) whether used in conjunction with or independently of digital analog, or hybrid computers.

c. *Qualifications and Exclusions.* (1) Analog computers are covered only when computers of this type are being used as equipment peripheral to a digital computer.

(2) Items of ADP equipment that are (a) physically incorporated in a weapon, or (b) manufactured under a development contract are excluded from the above definition.

(3) Accessories, such as tape cleaners, tape testers, magnetic tapes, paper tapes, disc packs and the like are excluded.

58. *Building Space and Related Facilities.*—a. *Rental cost.* Prior written approval is required when: (1) The total rental space requirement, including space for file, conference, mail, supply reproduction, and storage rooms, is in excess of 150 square feet per employee. Space required for intermittent and/or part-time employees may be included in space requirement.

(2) The rental charge exceeds $10 annually per square foot. The grantee/subgrantee shall certify in writing that the requested rental charge is consistent with the prevailing rates in the local area and shall maintain documentation in its files to support such a determination.

b. *Maintenance and Operation.* Prior approval is required where maintenance and operation expenses, as defined in FMC 74–4 and OMB circular A–21, when added to any space rental costs, are estimated to exceed an aggregate total of $12.50 annually per square foot of space occupied.

c. *Rearrangements and Alterations.* Prior approval is required when the total estimated outlay for rearrangement and alteration under any grant or subgrant is greater than $5,000. For costs in excess of such amount, justification must normally show that: (1) The building involved is in reasonably good condition with a life expectancy of five or more years;

(2) The costs are true rearrangement or renovation costs as distinguished from new construction or expansion of an existing building; and

(3) The total costs do not exceed 25 percent of the current value of the building.

d. *Depreciation and Use Allowances on Publicly Owned Buildings.* Prior approval is required only when depreciation or use allowances are to be charged on temporarily idle or excess facilities.

e. *Occupancy Under Rental Purchase or Lease with Option to Purchase Agreement.* Prior approval of costs of occupancy under arrangements of this type must be provided and may require application of special matching share requirements under construction programs.

59. *Equipment and Other Capital Expenditures.*—Equipment and other capital assets (refer to paragraph 12f), including repairs which materially increase their useful life, are allowable provided that the procurement receives prior approval. Approval requirements are as follows: a. *Planning and Administrative Funds.* Prior approval of items to be acquired for exclusive use in authorized CJC and entitlement jurisdiction operations is required for annual equipment expenditures over $10,000. Prior approval for CJCs must be obtained from the GRANTOR AGENCY. These expenditures normally consist of furniture, office equipment, vehicles, and other items required for the administrative effort of comprehensive application development, implementation and coordination. For subgrantees, CJCs may adopt a $5,000 prior approval requirement or may require review of all proposed equipment acquisitions.

b. *All Other Grant Funds.* (1) *Specific Provisions of the Grant Agreement.* Where expenditures for equipment are not fully justified by the budget and narrative description portion of the grants, the grantor agency and the CJCs may require that information such as the type, quantity estimated, unit price, etc., be provided through the issuance of Special Conditions to the grant award.

(2) *Cost Allowability Principles.* In reviewing equipment acquisition budgets and proposals, CJCs should adhere to the following cost allowability principles: (a) No other equipment owned by the grantee/subgrantee is suitable for the effort.

(b) Grant funds are not used to provide reimbursement for the purchase of equipment already owned by the grantee/subgrantee.

(c) Equipment purchased and used commonly for two or more programs has been appropriately prorated to each activity.

(3) *Helicopters and Airplanes.* The acquisition, use, or maintenance cost of helicopters or airplanes for law enforcement purposes is allowable. Law enforcement purposes are considered to be surveillance, crowd control, airlifting equipment and personnel, patrol, rescue operations, etc.

60. *Preagreement Costs.*—Prior approval is required for "preagreement costs" which are to be included in a grant or subgrant application. Preagreement costs are defined here as those costs which are considered necessary to the project but occur prior to the starting date of the grant period. a. *Planning and Administrative Funds.* The grant conditions for planning and administrative funds specifically permit charges of otherwise allowable costs incurred for authorized CJC and entitlement jurisdiction activities or for establishment of CJCs and entitlement jurisdictions, even if incurred prior to the date of the Planning, Part D or JJ formula grant award. Thus, awards may be deemed to have approved "preagreement" costs from the beginning of the grant period set forth in the grant award document (i.e., the beginning of the fiscal year of award unless the grantee has elected a later date).

b. *Block Action, Part D Formula Action, and JJ Formula Action Funds.* Costs to projects, which were incurred prior to the date of the subgrant award, may be charged to the project where the grant or subgrant application specifically requests support for preagreement costs. CJCs may approve preagreement costs for subgrantees if incurred subsequent to the beginning of the Federal fiscal year of award. Approval by the GRANTOR AGENCY is required for any preagreement costs incurred prior to the beginning of the Federal fiscal year of award for Block Action, Part D formula, and JJ formula awards.

c. *Categorical Grants.* Costs to projects which were incurred prior to the start date of the official grant period of the award may be charged to the project only if prior approval is obtained from the GRANTOR AGENCY.

61. *Proposal Costs.*—Costs to projects for preparing proposals for potential Federal grants requires prior approval.

62. *Professional Services (including Contractors and Consultants).*—a. *The requirements* with respect to arrangements for services with individuals, other government units and non-government organizations are as follows: (1) *Arrangements with individuals* must ensure that: (a) Dual compensation is not involved (i.e., the individual may not receive compensation from his regular employer and the retaining grantee or subgrantee for work performed during a single period of time even though the services performed benefit both).

(b) The contractual arrangement is written, formal, proper and otherwise consistent with the grantee's usual practices for obtaining such services.

(c) Time and/or services for which payment will be made and rates of compensation will be supported by adequate documentation.

(d) Transportation and subsistence cost for travel performed are at an identified rate consistent with the grantee's general travel reimbursement practices.

(2) *Arrangements with other government units* shall ensure that the work or services for which reimbursement is claimed must be directly and exclusively devoted to grant purposes and charged at rates not in excess of actual cost to the "contractor" government agency.

(3) *Arrangements with non-government organizations* shall ensure that: (a) The arrangement is written, formal, proper and consistent with the usual practice and policies of the grantee or subgrantee in contracting for or otherwise obtaining services of the type required;

(b) Indirect costs or overhead charges in cost-type arrangements are based on an audited or negotiated rate previously approved by a state or federal agency or are based on an indirect cost submission reflecting actual cost experience during the contractor's last annual or other recently completed fiscal period; and

(c) The customary fixed fee or profit allowance in cost-type arrangements does not exceed 10 percent of total estimated costs.

(d) Not more than 20 percent of the State's total Federal Planning Grant (State and local portions) may be used for contracted planning services or assistance by nongovernmental organizations.

(4) *A grantee should not circumvent* the requirements of paragraphs 62a (1) and (3) and 62(b) by contracting for a fixed product which would not be subject to the professional services fee limitation. This is particularly significant in contracting for the services of individuals.

b. *Compensation* for individual consultant services is to be reasonable and consistent with that paid for similar services in the market place. In addition, the policy is that the maximum rate for consultants is $135 (excluding travel and subsistence costs) for an eight (8) hour

day. An eight-hour day may include preparation, evaluation and travel time in addition to the time required for actual performance. A request for compensation for over $135 a day, but not to exceed $200 a day requires prior approval and additional justification. The following is the policy in regard to compensation of various classifications of consultants who perform like-type services and are subject to these limitations. (1) *Consultants Associated with Educational Institutions.* The maximum rate of compensation that will be allowed is the consultant's academic salary projected for twelve months, divided by 260. These individuals normally receive fringe benefits which include sick leave for a full 12-month period even though they normally only work nine months per year in their academic positions.

(2) *Consultants Employed by State and Local Governments.* Compensation for these consultants will only be allowed when the unit of government will not provide their services without cost. In these cases, the rate of compensation is not to exceed the daily salary rate paid by the unit of government.

(3) *Consulants Employed with Profit, Non-Profit and Not-for Profit Organizations.* These organizations are subject to competitive bidding procedures. Thus, they are not subject to the $135 per day maximum compensation. In those cases where an individual has authority to consult without employer involvement, the rate of compensation should not exceed the individual's daily salary rate paid by his/her employer subject to the $135 limitation.

(4) *Independent Consultants.* The rate of compensation for these individuals must be reasonable and consistent with that paid for similar services in the market place. However, these consultants may seek a higher rate than the consultants classified in paragraph 62b (1) and (2), due to the fact that they must pay for their own fringe benefits.

c. *If any of the requirements* outlined in paragraph 62 a and b are not met, prior approval must be obtained from the GRANTOR AGENCY.

63. *Confidential Expenditures.*—Prior approval is required by all grantees/subgrantees prior to the use of funds for confidential expenditures. Confidential expenditures, as used here, are defined as funds used for purchase of services, purchase of evidence (physical) and purchase of information. Refer to appendix 12, "Guidelines for Confidential Expenditures," for further details. a. *Confidential expenditures* will be considered in grants/subgrants to State law enforcement agencies and law enforcement agencies serving counties and cities with populations in excess of 50,000 upon the submission of special information which includes procedures and assurances established by the grantor agency for proper accounting and administration of this cost item. Guidelines and use instructions for handling confidential expenditures must be supplied to the grantees/subgrantees for all grants/subgrants providing support for confidential expenditures.

(b) *A special condition* must be applied to all grants/subgrants involving the expenditure of confidential funds. This condition should state: "Prior to the expenditure of the $—— allocated for confidential funds, the project director shall sign a certification indicating that he has read, understands and agrees to abide by all of the conditions pertaining to confidential fund expenditures as set forth in the effective edition of Guideline Manual 7100.1, Financial and Administrative Guide for Grants."

c. *Certification for Confidential Funds.* (1) A signed certification is required by the grantor agency or the CJC from all project directors of grants/subgrants involving the disbursement of monies for confidential expenditures from Federal or matching funds. For a sample of the required certification, refer to appendix 12.

(2) A signed certification must be returned to the grantor agency or the CJC to be placed in the official grant file.

d. *Those confidential expenditures, and other funds that are seized and revert* to a State or local unit of government as a result of grants which use confidential expenditures, other than in informant fees, shall be deemed program income pursuant to the Office of Management and Budget Circular No. A-102. Attachment E, paragraph 6, up to the total amount of such confidential expenditures used under such grant. This income will be returned to the CJC and used to support other projects under the appropriate program.

64. *Medical Research Conducted With Grant Funds.*—Medical research conducted by any grantee or subgrantee must receive prior approval from the GRANTOR AGENCY before any funds may be expended for the research. Prior approval requests may be prepared as a separate submission or included in the CJC's Comprehensive Application. Regardless of the type of submission selected, the following information must be included in the request for prior approval: a. Type of research;

b. Place and persons conducting the research;

c. Amount of research funds available; and

d. The research methodology, including data on chemical agents or medical procedures, use of human volunteer or animal subjects and a description of anticipated experiments.

65. *Contingency Costs for Construction Projects.*—Contingencies will be allowed as part of the budget classification but not as a cost item of the construction application. The contingency will be treated as a prior approval item and release of the contingency must be approved by the CJC or the grantor agency. The maximum contingency rate allowable on construction projects shall be 10 percent of direct construction costs.

66. *Deviations From Approved Budgets.*—The grantor agency recognizes the needs which will arise for departure from or adjustment of previously approved budget estimates in planning, action, Part D and JJ Formula and categorical grants. The most carefully formulated estimates must respond to future events, experience, and special contingencies, problems or cost not always susceptible of advance determination. a. *Planning Grants.* (1) *CJCs.* In grant applications, CJCs are required only to submit gross cost estimates in five broad expenditure categories—available to local units of government, and other expenses. CJCs may transfer among expenditure categories, a cumulative amount of up to five (5) percent of the grant budget. Transfers exceeding these limitations require prior approval by the GRANTOR AGENCY.

(2) *Subgrantees.* Policies concerning budget deviations by planning subgrantees, and the need for prior approval, shall be determined by the CJC subject only to adherence to the approval requirements in FMC 74-4.

b. *Block Action, Part D Formula and JJ Formula Grants.* (1) *CJCs* are currently required to submit only total cost estimates for each program for which an action or Part D or JJ formula grant is requested. Thus, no restrictions exist as to modifications of budgeted costs or expenditures within a program except as may be imposed by the normal cost allowability rules and approval requirements of FMC 74-4. Prior approval for reprogramming of funds is required as described in paragraphs 14b(2) and 20b(2) of this guideline manual.

(2) *Subgrantees.* Policies concerning budget deviations by block action, Part D and JJ formula subgrantees, and the need for prior approval shall be determined by the CJC subject only to adherences to the approval requirements of FMC 74-4.

c. *Categorical Grants.* Grantees and subgrantees must request prior approval for certain budget deviations. These deviations include: (1) *Non-Construction Grants.* (a) Transfer of funds among direct cost categories for awards in which the Federal share exceeds $100,000 when the cumulative amount of such transfers exceeds or is expected to exceed five percent of the total budget. (Applicable to ALL grantees/subgrantees).

(b) Require grantees/subgrantees to notify the GRANTOR AGENCY promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the grantee/subgrantee by more than $5,000 or five percent of the Federal award whichever is greater. (Applicable to ALL grantees/subgrantees).

(c) Changes in the scope or the objective of the project or program. (Applicable to ALL grantees/subgrantees).

(d) The need for additional Federal funding. (Applicable to ALL grantees/subgrantees).

(e) Recipients plan to transfer funds allotted for training allowances (direct payments to trainees) to other categories of expense. (Applicable to ALL grantees/subgrantees).

(f) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs. (Applicable to ALL grantees/subgrantees).

(g) The revisions pertain to the addition of items requiring approval in accordance with the provisions of FMC 74-4. (Applicable to grantees/subgrantees of state and local governments).

(h) The expenditures require approval in accordance with OMB Circular A-21 "Cost Principles for Educational Institutions." (Applicable to grantees/subgrantees of institutions of higher education, hospitals, and non-profit organizations).

(i) None of the substantive programmatic work under a grant or other agreement may be subcontracted or transferred without prior approval of the GRANTOR AGENCY. (Applicable to grantees/subgrantees of institutions of higher education, hospitals and other non-profit organizations).

(2) *Construction Grants.* (a) The revision results from changes in the scope or the objective of the project or program. (Applicable to ALL grantees/subgrantees).

(b) The revision increases the budget amounts of Federal funds needed to complete the project. (Applicable to ALL grantees/subgrantees).

(c) Require grantees/subgrantees to notify the GRANTOR AGENCY promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the grantee/subgrantee by more than $5,000 or five percent of the Federal award, whichever is greater. (Applicable to ALL grantees/subgrantees).

(3) *Construction/Non-Construction Grants.* (a) Before making any fund or budget transfers between the two types of work supported. (Applicable to ALL grantees/subgrantees).

(b) Budgets are also subject to prior approval for deviations listed in paragraph 66c (1) and (2) as appropriate.

67. *Travel* costs requiring specific prior approval by the Grantor Agency are domestic travel (by educational institutions) exceeding $500 or 25 percent of the approved budgeted amount identified for such travel and each foreign trip. These costs shall be requested as follows: a. *Domestic Travel* by a written letter requesting approval.

b. *Foreign Travel* may be incorporated into a grant application at the time of submission of the grant application or as a separate letter of written request for approval.

68. *Insurance and Indemnification.*—Inclusion of insurance or indemnification costs in the approved grant/subgrant budget or award is normally a precondition for allowability of such costs. However, separate request for approval may also be made. Also prior approval of insurance costs incurred in accordance with standard State and local government policy in the conduct of its activities (i.e., both federally and non-federally related) and consistent with sound business practice, such as bonding of employees or liability insurance for staff is required.

69. *Management Studies.*—Prior approval of costs of management studies is required if the studies are to be performed by agencies other than the grantee/subgrantee or by consultants.

Section 4. Costs Generally Unallowable

70. *Land Acquisition.*—Grantor agency legislation specifies that no Federal grant involving the renting, leasing, or constructing of buildings or other physical facilities shall be used for land acquisition. Accordingly, land acquisition costs are unallowable.

71. *Compensation of Federal Employees.*—Salary payments, consulting fees or other remuneration of full-time Federal employees are unallowable costs.

72. *Travel of Federal Employees.*—Costs of transportation, lodging, subsistence, and related travel expenses of grantor agency employees are unallowable charges against planning, action and juvenile justice grants. Travel expenses of other Federal employees for advisory committees or other program or project duties or assistance are allowable if they have been: a. *Approved by* the Federal employee's department or agency, and

b. *Included as* an identifiable item in the funds budgeted for the project or subsequently submitted for approval.

73. *Bonuses or Commissions.*—The grantee or subgrantee is prohibited from paying any bonus or commission to any individual for the purpose of obtaining approval of an application for grantor agency assistance.

74. *Military Type Equipment.*—Cost for such items as automatic weapons, armored vehicles, explosive devices, and other items typically associated with the military arsenal are unallowable.

75. *Lobbying.*—a. *No part of any grant* shall be used: (1) For publicity or propaganda purposes designed to support or defeat legislation pending before legislative bodies;

(2) To pay, directly or indirectly, for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a member of Congress, to favor or oppose, by vote or otherwise, any legislation of appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation (18 U.S.C. 3107).

b. *This provision Shall Not* limit the following types of activities: (1) Testimony before legislative bodies reviewing the effectiveness of grant programs, or

(2) Introduction and support in the State legislature of general statutory reform, such as criminal code revisions, court reform, etc.

76. *Fund Raising.*—A grantee or subgrantee may not charge "fund raising" as a budgeted cost to a grant. Fund raising expenses will not be reimbursed as an indirect cost and may be reimbursed as a direct cost only when it is shown to be directly related to a specific grant or contract-supported activity.

Section 5. Indirect Costs and Administrative Expenses

77. *Indirect Costs.*—a. *Definition.* Indirect costs are those costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The costs of operating and maintaining facilities, depreciation, and

administrative salaries are examples of the types of costs that are usually treated as indirect costs.

b. *All Other Grantees.* (1) *Approved Plan Available.* (a) The Administration may accept any indirect cost rate or allocation plan previously approved for a grantee by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars.

(b) Where federally-approved rates are used as the basis for charging indirect costs to grant funds, a copy of the Federal agency approval document should be promptly furnished to the grantor agency as part of the grant application.

(2) *No Existing Approved Plan.* (a) Where there is no existing federally-approved rate, indirect costs may not be charged to grant funds on the basis of predetermined fixed rates or a negotiated lump sum unless the rate is approved by the grantor agency. It will be necessary for all grantees desiring actual indirect costs and not having a federally-approved rate to submit their proposals to the grantor agency.

(b) In lieu of submitting actual indirect cost proposals, flat amounts not in excess of ten percent of direct labor costs (including fringe benefits) or five percent of total direct costs may be allowed as a predetermined rate based on general experience with respect to minimum overhead support levels required for grantee operations.

(c) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs. Grantees are encouraged to seek maximum indirect cost absorportion as a means for broader and more concentrated application of Federal funds to direct crime control activities.

(3) *Establishment of Indirect Cost Rates.* In order to be reimbursed for indirect costs, a grantee or organization must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the grantor agency. The proposal must be sumitted in a timely manner (within six months after the end of the fiscal year) to assure recovery of the full amount of allowable indirect costs, and it must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved. For further information concerning the establishment of indirect costs rates, consult the following brochures (listed below) published by the Department of Health, Education and Welfare which describe the procedures involved in the computation of indirect cost rates. Copies of these brochures may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402: (a) OASC-1 (Rev)—A Guide for Colleges and Universities, Cost Principles and Procedures for Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health, Education, and Welfare.

(b) OASC-5 (Rev)—A Guide for Non-Profit Institutions, Cost Principles and Procedures for Establishing Indirect Cost and Other Rates for Grants and Contracts with the Department of Health, Education, and Welfare.

(c) (OASC-10—A Guide for State and Local Government Agencies, Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government.

78. *Cost Allocation Plans—Central Support Services.*—CJCs and local units of governments may not charge the cost of central support services supplied by the State or local except pursuant to a "cost allocation plan" approved by the cognizant Federal agency. This provision also is applicable to all other state agencies. The rate which is to be applied may be on a provisional, final or predetermined basis.

79. *Reserved.* (Administrative Expenses).

80. *Reserved.*

Chapter 6. Procurement and Property Management Standards

81. *Procurement Standards.*—a. *General.* All grantees/subgrantees must follow the Federal standards in establishing procedures for the procurement of supplies, equipment, construction, and other services with grant funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of OMB Circular Nos. A-102 and A-110 and Executive Orders 11246 and 11375, entitled "Equal Employment Opportunity." State and local government shall refer to appendix 3, Uniform Grant-In-Aid Programs for State and Local Governments, Attachment O. Institutions of Higher Education, Hospitals and Other Non-Profit Organizations shall refer to appendix 4, Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, Attachment O. For details on implementation of procurement standards, refer to the effective edition of Guideline M 1700.6, Grant Manager Procurement Handbook. Any grantee/subgrantee (state or local) whose procurement system, has been certified by a Federal Agency is not subject to prior approval requirements of Attachment O, OMB Circular A-102. Grantor agency prior approval will only be required for areas beyond limits of the grantee/subgrantee certification.

b. *Adequate Competition.* All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competion.

c. *Noncompetitive Practices.* The grantee/subgrantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may retrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work and/or RFPs for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. An exemption to this regulation requires the prior approval of the grantor agency and is only given in unusual circumstances such as when a nonprofit organization is acting as the agent for the state or local unit of government. Any request for exemption must be submitted in writing to the grantor agency.

82. *Construction Requirements.*—The following policies and procedures relevant to construction are applicable to grantees/subgrantees. For the purpose of determining the appropriate funding ratios for construction projects, refer to Figure 2-1 and 2-4 of Chapter 2 of this guideline manual.

a. *The definitions for construction are as follows:* (1) *Crime Control Act.* Construction means the erection, acquisition, expansion, remodeling or alteration of existing buildings, and the cost of equipping said facilities. Initial equipment includes heating, plumbing, air conditioning and electrical service and similar fixed equipment items but does not include equipment not inherently a part of the facility, such as office furniture and equipment.

(2) *Juvenile Justice and Delinquency Prevention Act.* Construction means the acquisition, expansion, remodeling and alteration of existing buildings and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings). For the definition of initial equipment, refer to paragraph 82d.'

(3) *Justice System Improvement Act.* Construction means the erection,

acquisition, or expansion of new or existing buildings or other physical facilities and the acquisition or installation of initial equipment but does not include renovation, repairs or remodeling. For the definition of initial equipment, refer to paragraph 82a.

b. *Qualifications.* When considering the use of grantor agency funds, grantees and subgrantees must be cognizant of the following qualifications as to their use: (1) Acquisition of non-fixed equipment, feasibility studies, architectural studies and engineering fees, costs of soil borings and the like, may be funded on a 90 percent Federal, 10 percent matching share basis. These costs can be included in one application as a single line item of the budget showing the 10 percent matching share. The "pure" construction elements (including site preparation) of the budget may then be displayed with their appropriate percentage of Federal participation and matching share.

(2) Grantor agency legislation provides that no portion of Federal construction grant funds shall be used for the acquisition of land. States should, therefore, consider absorbing land acquisition costs within their share of construction project costs. Land may be used as match. However, the cost or value of (a) land already beneficially owned by the State prior to the fiscal year in which a construction project is approved or (b) which the State holds under a grant or patent from the United States for which no consideration was given, may not count as a matching share contribution. Land for which consideration was given to the United States must be valued at acquisition cost.

(3) The total cost of a construction project is inclusive of the cost of site preparation, including demolition of existing structures. Any proceeds realized from site preparation activities (e.g., salvage value of structures demolished or the proceeds from sale of timber) should be applied to reduce the total cost of the construction project.

(4) Payment of relocation costs shall be in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970." Refer to the effective edition of Guideline 4061.1 "Relocation Assistance and Payments," for a detailed explanation of costs for relocation assistance payments.

c. *Special Fiscal Conditions for Construction Projects.* Grant or subgrant funds for construction or facility improvement, which require letting a contract amounting to $100,000 or more to a private company or individual shall require: (1) *A bid guarantee* equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified after the forms are presented to him.

(2) *A performance bond* on the part of the contractor for 100 percent of the contract price. "Performance bond" means a bond executed in connecting with a contract to assure payment is required by law of all persons supplying labor and material in execution of the work provided for in the contract.

(3) *Where the Federal government* guarantees the payment of money borrowed by a grantee or subgrantee, the CJC may, at its discretion, require adequate bonding and insurance if the bonding or insurance requirements of the grantee or subgrantee are not deemed sufficient to protect adequately the interest of the Federal government. In those instances where construction of facility improvements for less than $100,000 are contemplated and the subgrantee does not have any requirements for bid guarantees, performance bonds and payment bonds, the CJC will impose State requirements on the subgrantees.

d. *Exceptions for JJDP Construction Projects.* (1) *Source and Types of Funds.* Match for construction programs and/or projects awarded to public agencies must consist of cash appropriated by the grantor or contributed by a private agency or individual. This requirement may be waived by the grantor agency, in whole or in part, for grants awarded to private agencies and in-kind match substituted if:

(a) The program and/or project otherwise meets the criteria of the Act.

(b) It is consistent with the State Comprehensive Application.

(c) It is meritorious, i.e., it will help alleviate the juvenile delinquency problem.

(d) A demonstrated and determined good faith effort has been made to find a cash match.

(e) No other reasonable alternative exists except to allow in-kind match.

(2) *Use of Funds.* (a) Construction programs and projects funded under the Juvenile Justice and Delinquency Prevention Act funds are limited to construction of innovative community based facilities for less than 20 people. Facilities include both buildings and parts or sections of a building to be used for a particular program or project.

(b) Erection of new buildings is not permitted with Juvenile Justice and Delinquency Prevention funds.

(c) Use of Juvenile Justice and Delinquency Prevention funds for construction is equally applicable to programs or projects using Formula or Special Emphasis Prevention and Treatment Program funds.

83. *General.*—The standards and procedures contained in this chapter apply to all grantees/subgrantees receiving grantor agency assistance. The standards are based on the property management standards prescribed in Attachment N of both OMB Circulars A-102 and A-110.

84. *Policies.*—Policies and procedures with respect to the acquistion and disposition of property acquired with grant funds must be based on three primary considerations: the function of a property in facilitating successful execution of a project; the necessity for ensuring that grant funds are properly used and accounted for; and, the desirability of minimizing administrative accounting and reporting requirements. All grantees/subgrantees utilizing grant funds for the acquisition of property are responsible for establishing and maintaining systems for the effective management of such property. Grantees/subgrantees are expected to apply to property acquired with grantor agency funds the same policies, procedures and controls normally applied for all of their other property, provided that the minimum management standards contained in this guideline are met.

85. *Definitions.*—The following definitions apply for the purpose of this guideline.

a. *Real Property.* Real Property means land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

b. *Personal Property.* Personal property means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

c. *Nonexpendable Personal Property.* Nonexpendable personal property is tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee or subgrantee may use its own definition of nonexpendable personal, provided that such definition would at least include all tangible personal property as defined above. That is, if the grantee's/subgrantee's property management system defines nonexpendable personal property in terms which include a broader range of property, i.e., $100 per unit cost and

encompasses all items which would be so classified in the above definition, a grantee/subgrantee may continue to use its own criteria.

d. *Expendable Personal Property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

86. *Standards for Property Management.*—a. *Acquisition.* All grantees/subgrantees are required to be prudent in the acquisition and management of equipment with grant funds. Expenditures of grant funds for the acquisition of new equipment, when suitable equipment required for the successful execution of project is already available within the grantee or subgrantee organization, will be considered unnecessary expenditures.

b. *Screening.* Careful screening should take place before acquiring equipment in order to ensure that it is needed and that the need cannot be met with equipment already in the possession of the grantee/subgrantee organization. While there is no prescribed standard for such review, grantee/subgrantee procedures might well establish levels of review dependent on factors such as the cost of the proposed equipment and the size of the grantee or subgrantee organization. The establishment of a screening committee may facilitate the process; however, a grantee or subgrantee may utilize other management techniques which it finds effective as a basis for determining that the equipment is needed and that it is not already available within the grant recipient's organization.

c. *Grant Review Responsibilities.* Grantor agency program monitors and CJC grant reviewers must ensure that the screening referenced above takes place and that the grantee/subgrantee has an effective system for equipment management. Grantees and subgrantees should be informed that if the grantor agency is made aware that the grantee or subgrantee does not employ an adequate equipment management system, grant costs associated with the acquisition of the equipment may be disallowed.

d. *Loss, Damage or Theft of Nonexpendable Property.* Grantees/subgrantees are responsible for replacing or repairing equipment which is willfully or negligently lost, stolen, damaged or destroyed. Any loss, damage, or theft of nonexpendable property must be investigated and fully documented and made part of the official grant records.

e. *Accounting Requirements.* Grantees/subgrantees are required to maintain a readily identifiable inventory of property ($1,000 or more) purchased in whole or in part with grantor agency funds. This inventory is to be made a part of the grantee's official records and must be available for review by authorized Federal and State personnel. In addition, the CJC must ensure that an inventory of property ($1,000 or more) purchased in whole or in part with grantor agency funds, which it subgrants, is maintained.

f. *Record Keeping Requirements.* Grantees/subgrantees are requried to maintain, as part of the financial records of the grant or subgrant, the following types of property management records for all property acquired in whole or in part with grantor agency funds. The CJC may determine at which level, CJC or subgrantee, records shall be maintained for subgrant property. At a minimum, property management records must meet the following requirements:

(1) Records must contain copies of purchase orders and invoices.

(2) The records must include an inventory control listing for nonexpendable property and the list must be kept current. The system may be manual or automated, centralized or decentralized; however, the records must identify:

(a) Item description.

(b) Source of property.

(c) Manufacturer's serial number and, if applicable, a control number.

(d) Grantor agency funded cost equity at time of acquisition.

(e) Acquisition date and cost.

(f) Location, use and condition of property.

(g) Ultimate disposition data including sale price or the method used to determine current fair market value.

(3) A physical inventory of property ($1,000 or more) shall be taken and the results reconciled with the property record at least once every two years to verify the existence, current utilization and continued need for the property. If the CJC determines that property management records shall be maintained by the subgrantees and that the subgrantee shall perform the physical inventory of property, the results of the inventory must be forwarded to the CJC for review and concurrence. These records shall become part of the official grant file of the CJC.

(4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage or theft to the property. Any loss, damage or theft of nonexpendable property shall be investigated, fully documented and made part of the official grant file.

(5) Adequate maintenance procedures shall be established to keep the property in good condition.

(6) Proper sales procedures shall be established for unneeded property which would provide for competition to the maximum extent practicable and result in the highest possible return.

g. *Retention Period.* Records for nonexpendable property which has been acquired in whole or in part with Federal grant funds must be retained for three years after final disposition of the nonexpendable property.

87. *Intangible Personal Property.*—a. *Patents, Patent Rights, and Inventions.* If any grant project produces patents, patent rights, or inventions in the course of work aided by Federal grant of CJC subgrant funds, such facts must be promptly and fully reported to the grantor agency. The grantor agency will determine whether protection of such invention or discovery (including rights under any patents issued thereon) shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 P.R. 16889).

b. *Copyrights and Copyrightable Material.* Where the Federal grant or CJC subgrant results in a book or other copyrightable material, the author, grantee or subgrantee is free to copyright the work, but the grantor agency reserves as a royalty, free, nonexclusive and irrevocable licence to produce, publish, or otherwise use, and authorize others to use, the work for government purposes.

88. *Standards and Procedures Governing Ownership, Use and Disposition of Property.* The following requirements concerning property control and management are applicable to all recipients of Federal funds.

a. *Real Property Acquired With Block, Part D or JJ Formula Funds.* (1) *Land Acquisition.* Block, Part D or JJ formula funds shall not be used for land acquisition.

(2) *Use of Real Property.* The CJC and its subgrantees may use real property acquired in whole or in part with Federal funds for the authorized purpose of the original grant as long as needed whether or not the program or project continues to be supported by Federal funds.

(3) *Disposition.* Initially, title to and accountability for real property acquired in whole or in part with block and formula funds is vested either in the grantee or the subgrantee. Upon completion of the subgrant project, subgrantees shall submit a final expenditure report which should identify real property acquired in whole

or in part with block or formula funds. Upon receipt and review of the final expenditure report, CJCs must formally advise subgrantees, within 90 days after receipt of the final expenditure report, of the determination it has made relative to the use of the real property. In making this determination, CJCs may exercise one of two options. They may:

(a) Permit the subgrantee to retain the property acquired with Federal funds as long as there is a need for the property to accomplish the purpose of the program or project, whether or not the program or project continues to be supported by Federal funds, provided that the use of such property is consistent with those objectives authorized for support by the CJC.

(b) Direct the real property to be transferred to other subgrantees or a criminal justice activity needing the property, provided that use of such real property is consistent with those objectives authorized for support by the CJC.

(c) Return all real property Furnished or Purchased wholly with Federal funds to the control of the grantor agency. In the case of real property purchased in part with Federal funds, the subgrantee of such real property may be permitted to retain title upon compensating the grantor agency for its fair share of the property. The Federal share of the property shall be computed by applying the percentage of the Federal participation in the total cost of the program for which the property was acquired, to the current fair market value of the property. In those instances wherein the subgrantee does not wish to purchase real property purchased in part with Federal funds, disposition instructions shall be obtained from the grantor agency.

b. *Real Property Acquired with Categorical Funds* shall be subject to the same principles and standards as outlined in paragraph 88a with the exception that grantees must request the disposition instructions from the grantor agency.

c. *Nonexpendable Personal Property Acquired With Block, Part D or JJ Formula Funds.* When nonexpendable personal property is acquired in whole or in part with block, Part D or JJ formula funds, title will not be taken by the Federal government but shall be vested either in the CJC or its subgrantees. Said vestment of ownership is subject to the following restrictions on the use of disposition of the property.

(1) *Grant Completion.* Upon completion of the subgrant project, each subgrantee must submit a final expenditure report which should identify property purchased in whole or in part with block, Part D or JJ formula funds. Upon receipt and review of the final expenditure report, the CJC shall formally advise the subgrantee within 90 days of the determination it has made relative to the use of nonexpendable property. In this respect, the CJC may exercise one of two options. It may:

(a) Permit the subgrantee that purchased the nonexpendable property to retain such property, provided that the subgrantee makes written assurance that it will use the property in the criminal justice system consistent with those objectives authorized for support by the CJC.

(b) Permit the nonexpendable property to be transferred to other subgrantees needing the property, provided that these recipients make written assurance that they will use the property in the criminal justice system consistent with those objectives authorized for support by the CJC.

(2) *Use of Nonexpendable Property.* CJC may permit subgrantees of nonexpendable property purchased in whole or in part with block, Part D or JJ formula funds to use such property in the following order of priority:

(a) In the subgrant project as long as there is a need for the property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(b) In order CJC or grantor agency funded projects requiring the use of such property.

(c) In grants of other Federal agencies needing the property.

(d) In other criminal justice activities needing the property, provided that these activities are consistent with those authorized for support by the CJC.

(3) *Disposition.* When a subgrantee of nonexpendable property purchased in whole or in part with block, Part D or JJ formula funds no longer has need for the property in any of its Federal grant programs, projects, or criminal justice activities, the property, with the concurrence of the CJC, may be used for its own official activities in accordance with the following standards.

(a) *Nonexpendable property with a unit of acquisition cost of less than $1,000.* The subgrantee may use the property without reimbursement to the CJC or the grantor agency or sell the property and retain the proceeds.

(b) *Nonexpendable property with a unit acquisition cost of $1,000 or more.*

1. The CJC may permit the subgrantee to retain the property for other uses provided compensation is made to the CJC. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the of the original CJC block, Part D or JJ formula program under which the subgrant was funded to the current fair market value of the property.

2. The CJC may instruct the subgrantee to ship the property elsewhere. The subgrantee shall be reimbursed by the beneficiary with an amount which is computed by applying the percentage of the subgrantee's participation in the cost of the block, part D or JJ formula program under which the subgrant was funded to the current fair market value of the property, plus any reasonable storage cost incurred.

3. The CJC may instruct the subgrantee to sell the property and reimburse the CJC an amount which is computed by applying the percentage of Federal participation in the cost of the original block, Part D or JJ formula program under which the subgrant was funded to the current fair market value of the property. The subgrantee is permitted to retain $100 or ten (10) percent of the proceeds, whichever is greater, for selling and handling expenses.

4. Refunds from the sale or purchase of property may be retained by the CJC and used for program purposes when the sale or purchase of property occurs during the period of award of the block, Part D or JJ formula grant under which the property was purchased. If the sale or purchase of property occurs after the termination date of the grant, the proceeds of the sale or purchase must be returned to the grantor agency for forwarding to Treasury for miscellaneous income.

5. When the CJC determines that nonexpendable property with an acquisition cost of $1,000 or more is unique, difficult or costly to replace, the CJC may reserve the right to require the subgrantee to transfer the property to the control of the CJC or directly to a third party named by the CJC when such third party is otherwise eligible under existing regulations. Such reservations shall ensure that the property is appropriately identified in the CJC grant agreement or otherwise made known to the subgrantee, and that the CJC issues disposition instructions within 90 calendar days after the end of the CJC support of the project for which it was acquired.

d. *Nonexpendable Personal Property Acquired Under Categorical Grants by a Government Agency, Educational Institution or Hospital.* When nonexpendable personal property is acquired by governmental grantees, educational institutions, hospitals, and non-profit organizations, in whole or in part with grantor agency categorical

funds, title will not be taken by the Federal government, but shall be vested in the grantee subject to the following restrictions on use and disposition of the property:

(1) *Use.* The grantee/subgrantee shall use the property in the project for which it was acquired as long as there is a need for the property to accomplish the purpose of the project whether or not the project continues to be supported by Federal funds. When no longer needed for the original project, the grantee/subgrantee shall use the property in connection with its other Federally assisted programs in the following order of priority.

(a) Other grants of the grantor agency needing the property.

(b) Grants of a CJC needing the property.

(c) Grants of other Federal agencies needing the property.

(2) *Disposition.* When the grantee/subgrantee no longer needs the property. as provided in paragraph 88d(1), the property may be used for other activities of the grantee in accordance with the following standards:

(a) *Nonexpendable property with a unit acquisition cost of less than $1,000.* The grantee/subgrantee may retain the property for its own use without reimbursement to the Federal government or sell the property and retain the proceeds.

(b) *Nonexpendable property with a unit acquisition cost of $1,000 or more.* The grantee/subgrantee may retain the property for other uses provided that compensation shall be computed by applying the percentage of grantor agency participation in the cost of the original project to the current fair market value of the property. If the grantee/subgrantee has no need for the property, he shall request disposition from the component of the grantor agency which administers the grant.

(c) *Grantor agency action.* Upon receipt of notification from a grantee/subgrantee that it has no need for nonexpendable property with a unit acquisition cost of $1,000 or more, the component of the grantor agency which administers the grant shall use one of the following options:

1. It may instruct the grantee/subgrantee to ship the property to other agencies needing the property. The grantee/subgrantee shall be reimbursed by the beneficiary with an amount which is computed by applying the percentage of the grantee's/subgrantee's participation in the cost of the project to the current fair market value of the property, plus any reasonable shipping and storage costs incurred.

2. It may instruct the grantee/subgrantee to sell the property and reimburse the grantor agency an amount which is computed by applying the percentage of Ferderal participation in the cost of the project to the current fair market value of the property. The grantee/subgrantee is permitted to retain $100 or ten (10) percent of the proceeds, whichever is greater for selling and handling expenses.

3. When the grantor agency determines that nonexpendable property with an acquisition cost of $1,000 or more is unique, difficult or costly to replace, the grantor agency may reserve the right to require the grantee/subgrantee to transfer property to the control of the grantor agency or directly to a third party named by the grantor agency when such third party is otherwise eligible under existing regulations. Such reservations shall ensure that the property is appropriately identified in the grant agreement or otherwise made known to the grantee/subgrantee, and that the grantor agency issues disposition instructions within 90 calendar days after the termination date of the project for which it was acquired.

4. Ninety (90) days prior to the end date of the grant, the grantor agency project monitor shall require the grantee to submit a listing of all nonexpendable property purchased for the project. Information provided in this listing shall indicate item description, date of purchase of the property, condition (serviceability) of the property and total cost of the property. This information shall be made a part of the official grant file. Property purchased after submission of the listing must also be reported using the format previously described.

e. *Replacement of Property.* When an item of nonexpendable personal property with an acquisition cost of $1,000 or more is no longer efficient or serviceable but the grantee/subgrantee continues to need the property in its criminal justice system, the grantee/subgrantee may replace the property through trade-in or sale and purchase of new property, provided the following requirements are met:

(1) *Similar Function.* Replacement property must serve the same function as the original property and must be of the same nature or character, although not necessarily of the same grade or quality.

(2) *Credits.* Value credited for the property, if the property is traded in, must be related to its fair market value.

(3) *Time.* Purchase of replacement property must take place soon enough after the sale of nonexpendable property to show that the sale and the purchase are related.

(4) *Compensation.* Replacement of property under this paragraph is not a disposition of such property. The grantee/subgrantee is not required, at the time of replacement, to compensate the Federal government for the Federal share of the property; rather, the Federal share shall be applied to the replacement cost of the property. The replacement property shall be subject to the same instructions on use and disposition as the property replaced.

(5) *Calculation of Federal Share.* The Federal share of the replacement property shall be calculated as follows:

(a) The proceeds from the sale of the original property or the amount credited for trade-in shall be multiplied by the Federal share (percentage) to produce a dollar amount.

(b) The percentage of the dollar amount to the total purchase price of the replacement property shall be the Federal share of the replacement property.

(6) *Prior Approval.* Subgrantees of block grant funds must obtain the written permission of the CJC to use the provisions of this paragraph prior to entering into negotiation for the replacement or trade-in of nonexpendable property. Where the CJC is the co-applicant for categorical funds, the "implementing agency" shall also obtain prior approval from the CJC.

89. *Reserved.*

Chapter 7.—Additional Grant Requirements

90. *General.* This chapter sets forth additional administrative standards to be used by grantees/subgrantees in administering grant funds.

91. *Printing.* The term printing shall be construed to include and apply to the process of composition, plate-making, presswork, binding, and microfilm; the equipment as classified in the tables in Title II of the Government Printing and Binding Regulations, published by the Joint Committee on Printing, Congress of the United States, and as used in such processes, or the end items produced by such processes and equipment. Pursuant to the Government Printing and Binding Regulations, no project may be awarded primarily or substantially for the purpose of having material printed for the grantor agency. The Government Printing and Binding Regulations allow:

a. *Issuance.* The issuance of a project for the support of nongovernmental publications, provided such projects were issued pursuant to an authorization of law and were not made primarily or substantially for the

purpose of having material printed for the grantor agency.

b. *Publications.* The publication of findings by grantees/subgrantees within the terms of their project provided that such publication is not primarily or substantially for the purpose of having such findings printed for the grantor agency.

c. *Initiation.* The initiation of the procurement of writing, editing, preparation of related illustration material from grantees/subgrantees or the internal printing requirements of the grantee/subgrantee necessary for compliance with the terms of the project. However, the printing of such material for the Government must be accomplished in accordance with printing laws and regulations.

d. *Duplication.* A requirement for a grantee/subgrantee to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages of its findings for the grantor agency will not be deemed to be printing primarily or substantially for the grantor agency (e.g., 5,000 copies of 50 pages, etc.). For the purpose of this paragraph, such pages may not exceed a maximum image size of 10¾ by 14¼ inches.

e. *Production.* A requirement for a grantee/subgrantee to produce less than 250 duplicates from original microfilm will not be deemed to be printing primarily or substantially for the grantor agency. Microfilm is defined as one roll of microfilm 100 feet in length or one microfiche.

92. *Publicity.* Project Directors should be encouraged to make the results and accomplishments of their activities available to the public. Prior grantor agency approval is not needed for publishing the results of an activity under a project. Responsibility for the direction of the activity should not be ascribed to the grantor agency. However, an acknowledgement of support must be made through use of the following or comparable footnote:

This project was supported by Grant No. . . . awarded by the Law Enforcement Assistance Administration (LEAA) and/or Office of Justice Assistance, Research, and Statistics (OJARS). The contents do not necessarily reflect the views and policies of the LEAA and/or OJARS.

93. *Copyright.* Except as otherwise provided in the conditions of the award, the author is free to arrange for copyright without approval when publication or similar materials are developed from work under a grantor agency supported project. Any such copyrighted materials shall be subject to the Government's right to reproduce them, translate them, publish them, use and dispose of them, and to authorize others to do so for Government purposes. In addition, communications in primary scientific or professional journals publishing initial reports or research or other activities supported in whole or in part by grantor agency project funds may be copyrighted by the journal with the understanding that individuals are authorized to make or have made by any means available to them, without regard to the copyright of the journal, and, without royalty, a single copy of any such article for their own use.

94. *Conflict of Interest.* Personnel and other officials connected with grantor agency funded programs shall adhere to the requirements given below:

a. *Advice.* No official or employee of a State or unit of local government or of non-government grantees/subgrantees shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which grantor agency funds are used, where to his knowledge he or his immediate family, partners, organization other than a public agency in which he is serving as officer, director, trustee, partner, or employee or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

b. *Appearance.* In the use of grantor agency project funds, officials or employees of State or local units of government and nongovernmental grantees/subgrantees shall avoid any action which might result in, or create the appearance of:

(1) Using his or her official position for private gain;

(2) Giving preferential treatment to any person;

(3) Losing complete independence or impartiality;

(4) Making an official decision outside official channels; or

(5) Affecting adversely the confidence of the public in the integrity of the Government or the program.

95. *Termination of categorical Projects.* The grantor agency's right to terminate any project will normally be exercised only where it has reason to believe that the grantee/subgrantee is mishandling project funds or is unable to carry out the project properly or where anticipated continuation funds become unavailable. In the event that the project is terminated, the grantor agency will notify the grantee in writing of its decision, specify the reasons therefore, and accord the grantee/subgrantee a reasonable time to terminate project operations or seek support from other sources. A project which is prematurely terminated will be subject to the same requirements regarding audit, recordkeeping, and submission of reports as a project which runs for the duration of the project period. Refer to 28 CFR Part 18 for appeals rights in event of termination.

96. *Changes in Categorical Projects.* All requests for programmatic and/or administrative budget changes must be handled in a timely manner by the grantee/subgrantee in coordination with the grantor agency. All requests for changes from the approved grant should be carefully reviewed for both consistency with this manual and their contribution to project goals and objectives.

a. *Types of Project Changes.* In addition to changes addressed in paragraphs 29d and 66, there are several types of project changes and/or modifications which require formal approval of the grantor agency. Examples of such changes are:

(1) Change in project site;

(2) Changes which increase or decrease the total cost of the project;

(3) Change in or temporary absence of the project manager/director;

(4) Transfer of Project;

(5) Successor in interest and name change agreements;

(6) Transfer for contracting of project requiring prior approval;

(7) Addition of an item to the project budget requiring prior approval;

(8) Change of grant manager;

(9) Special conditions attainment, if required.

b. *Notification.* All grantees must give prompt notification in writing to the grantor agency of events or proposed changes which may require an adjustment/notification such as those set forth in paragraphs 29d, 66 and 97a. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed change and any other data deemed helpful for grantor agency review.

97. *CJC Supervision and Monitoring Responsibility for Categorical Projects.*—a. *CJCs are responsible* for supervising and monitoring only those projects which have been awarded to them.

b. *When it is the grantee,* the CJC has the responsibility for assuring proper administration of categorical subgrants including responsibility for:

(1) Proper conduct of the financial affairs of any subgrantee or contractor insofar as they relate to programs or projects for which categorical projects funds have been made available; and,

(2) Default in which the CJC may be held accountable for improper use of grant funds.

c. *The CJC should incorporate* categorical grants into its system for subgrant monitoring and supervision and, to the extent appropriate and consistent with the grantor agency guidelines, use the same procedures for supervision of categorical subgrants as are used with block subgrants.

d. *Subgrantees have the authority* to transfer, between direct cost object class budget categories, the cumulative amount of up to 5 percent of the project budget (Federal and non-Federal funds) for project budgets in excess of $100,000.

e. *The CJC has the authority* to make the changes listed below, provided that the CJC informs the grantor agency in writing of the request, and the action, within 14 calendar days of the CJC action and prior to the original end date of the project. Exceptions to this authority may be made, but will be made known before the CJC has been made the grantee. The areas where CJCs may make changes are:

(1) Any cumulative amount of transfers exceeding the limitations set forth in paragraph 97d, if this does not alter the scope or objectives of the approved project.

(2) Extensions of categorical projects up to three months beyond the initial approved duration, not to exceed a total project period of 24 months.

(3) Other minor deviations from categorical projects necessary to assure efficient administration, but not including departures which change the scope or objectives of the approved project or which vary from the project description published in this Manual.

f. *Changes exceeding* the authority of the subgrantees in paragraph 97d, or the CJCs in paragraph 97e, must receive prior approval from the grantor agency.

g. *In the case of projects for which the CJC is both the grantee and the implementing agency*, prior approval for grant extensions in paragraph 29d, project changes specified in paragraph 96a, and budget changes beyond those specified in paragraph 97d, must be obtained from the grantor agency.

98. *Financial Evaluation of Categorical Project Applications.*—a. *Financial evaluation* of project applications involves (1) performing a cost analysis of each project application approved for funding by the grantor agency and (2) determining the adequacy of the applicant institution's accounting system to insure that Federal funds, if awarded, will be expended in a judicious manner.

b. *A cost analysis* is the process of obtaining cost breakdowns, verifying cost data, evaluating specific elements of cost, and examining data to determine the necessity, reasonableness, and appropriateness of the proposed cost. The form and extent of such an analysis will be determined by the grantor agency.

c. *Where a prospective grantee* has held no prior grantor agency or cost-reimbursement contracts, the applicant organization's accounting system must be reviewed prior to award or within a reasonable time thereafter to assure its adequacy and acceptability. This review will also apply where known financial or management deficiencies exist. Such a review will be undertaken by or at the direction of the grantor agency. The results of the review will determine the action to be taken by the grantor agency with regard to the award.

99. *Subgranting and Contracting of Categorical Project-Supported Effort.*—a. *None of the principal activities* of the project-supported effort shall be subgranted or contracted out to another organization without specific prior approval by the grantor agency. Where the intention to award subgrants or contracts is made known at the time of application, this approval may be considered granted if these activities are funded as proposed.

b. *All such arrangements* must be formalized in a contract or other written agreement between the parties involved. The contract or agreement must, at a minimum, state the activities to be performed, the time schedule, the project policies and the requirements that are applicable to the subgrantee contractor, or other secondary recipient ("flowthrough" requirements), other policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be used in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Government.

c. *This section* applies to principal activities of a project but does not apply to contracts within a project for the routing, purchase of supplies, materials, equipment, or general support services.

100. *Close-Out of Categorical Projects.*—a. *Definition.* Close-out is a process in which the grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor agency.

b. *Grantee Close-Out Requirements.* Within 90 days after the end date of the grant or any approved extension thereof (revised end date) the following documents must be submitted by the grantee to the grantor agency.

(1) *Financial Status Report.* This FINAL report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award amount by the grantor agency. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, shall return unused funds to the grantor agency at the same time they submit the final report.

(2) *Final Progress Report.* This report should be prepared in accordance with instructions provided by the grantor agency.

(3) *Final Equipment Inventory Report.* This report reflects all equipment purchased with grant funds. The equipment inventory should include a completed description of the equipment items, original dates or purchase, original costs, estimate of current value and condition and the grantee's recommendation for disposing of each item of equipment.

(4) *Invention Report.* All inventions that were conceived or first actually reduced to practice during the course of work under the grant project must be listed on this report.

101–104. *Reserved.*

Chapter 9.—Audit Requirements

105. *General.*—a. *Purpose.* The purpose of this chapter is to identify the responsibilities for the auditing of organizations receiving grantor agency funds. Its intent is to identify grantor agency policies for determining the proper and effective use of public funds, rather than to prescribe detailed procedures for the conduct of an audit. Such detailed procedures are contained in other documents, such as those referenced in paragraph 105f.

b. *Audit Responsibilities.* Pursuant to Office of Management and Budget Circulars A–102, revised "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," Attachment P, and A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," Attachment F, grantees and any subgrantees and subrecipients have the responsibility to provide for an audit of their activities.

These audits usually will be made annually, but not less frequently than every two years.

c. *Requirements.* Grantees, as well as their subgrantees, contractors or other organizations under cooperative agreements of purchase or service contracts are to have examinations in the form of audits in conformance with OMB Circulars A–102, Attachment P, and A–110, Attachment F, as applicable. These examinations shall be conducted in accordance with the General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs (Refer to OMB Circular A–102), and generally accepted auditing standards established by the American Institute of Certified Public Accountants. Additionally, these recipients are subject to other periodic examinations by Federal and State audit organizations.

d. *Definition.* The term "audit", as defined in the GAO standards, is a systematic review or appraisal to determine and report on whether:

(1) Financial operations are properly conducted;

(2) Financial reports are presented fairly;

(3) Applicable laws and regulations have been complied with;

(4) Resources are managed and used in an economical and efficient manner; and,

(5) Desired results and objectives are being achieved in an effective manner.

e. *The above elements of an audit* are most commonly referred to as financial/compliance, items (1), (2), and (3); economy/efficiency, item (4); and program results, item (5). Collectively, they represent the full scope of an audit and provide the greatest benefit to all potential users of audits. In developing audit plans, however, the audit scope should be tailored to each specific program according to the circumstances relating to the program, the management needs to be met, and the capabilities of the audit organizations. Although a financial and compliance audit is required, it is the grantor agency policy to encourage States to obtain a full scope audit.

f. *References.* The requirements for effective accounting systems and financial records, which will facilitate both program management and auditing, are contained in Chapter 4 of this guideline manual. The following directives, regulations and reports provide specific information regarding the audit of grantees, subgrantees and contractors under grants or subgrants:

(1) *LEAA Guide for Financial and Compliance Audits for State Planning Agencies,* Office of Audit and Investigation, September 1978.

(2) *Distribution, Resolution, and Clearance of Audit Reports,* G 7140.1 (effective edition).

(3) *Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities,* G 7140.2 (effective edition).

(4) *Office of Management and Budget Circular A–102,* (revision dated 9/12/77), "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," Attachment P, (Refer to appendix 3).

(5) *Office of Management and Budget Circular A–110,* dated 7/30/76), Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, Attachment F, (Refer to appendix 4).

(6) *Standards for Audit of Governmental Organizations, Programs, Activities and Functions,* U.S. General Accounting Office, GOP Stock No. 020–000–00110–1.

(7) *Guidelines for Financial and Compliance Audits of Federally Assisted Programs,* U.S. General Accounting Office.

(8) *Applicable Grantor Agency Legislation* (refer to Chapter 2 of this guideline manual).

106. *Audit Objectives.* Grants and other agreements are awarded subject to conditions of fiscal, program and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to review the recipient's administration of grant funds and required non-Federal contributions for the purpose of determining whether the recipient has:

a. Established an accounting system and procedures integrated with adequate internal fiscal and management controls to provide full accountability over the recipient, expenditure and use of program funds.

b. Expended and used program funds in accordance with the requirements set forth by the Acts, the grantor agency, other applicable Federal and State laws, regulations and procedures, and the terms and conditions of the award.

c. Prepared financial reports containing accurate, reliable and useful financial data, which are fairly presented.

d. Managed its financial operations in accordance with sound management practices.

107. *Audits of the CJC.* In accordance with OMB Circular A–102, Attachment P, and grantor agency legislation, the responsibility for providing the audit function of the agency's grant program is with the State.

a. *OMB Circular A–102 Requirements.*—(1) An audit examination shall be conducted with reasonable frequency on a continuing basis or at scheduled intervals, usually annually but not less frequently than every two years. Audits performed of the grant programs should be conducted in accordance with the standards normally used by the State audit agency or independent outside auditor and the GAO Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

(2) The grantor agency encourages that this audit be performed by or under the direction of the appropriate State audit organization. Since the majority of the grantor agency funds received by the CJC are awarded to and expended by subgrantees, the audit of the CJC must encompass a reasonable volume (programs and dollars) of the total planning and action subgrants awarded by the CJC. To lessen the cost of audit services and to prevent duplication of effort, the State audit agency or outside independent audit organization performing the CJC audit should review the audit work which has been arranged for by the subgrantee organizations (financial and compliance audits) and the work performed by the State under the Acts and determine its adequacy and relaibility. Where the subgrant audit work is acceptable, the scope of the CJC audit may be reduced accordingly and the extent of reliance placed on this audit should be stated in the scope of the CJC audit report.

(3) In the event that the subgrant audits are not adequate or reliable, the audit organization performing the CJC audit should qualify or disclaim their opinion on the work. In those cases where the audits are unacceptable, the audit organization performing the CJC audit should expand their audit coverage to include a reasonable sample of subgrants. However, where a State audit agency does not have the authority to perform audits, arrangements will be made to provide supplemental audit coverage of subgrants.

b. *Implementation.* In order to accomplish the purpose of the OMB Circular A–102 requirements, the State will specify its arrangements for performing the audit of the CJC in a formal state audit plan. This would include but not necessarily be limited to, the following:

(1) Audit organizations that will conduct the audit (if other than the State auditor, describe how the State auditor will be involved);

(2) Approximate timing of when the audit will be performed;

(3) Audit coverage to be provided. Where the audit will not provide the coverage requirements, specified in this chapter, the audit policy must describe the specific arrangements for obtaining audit services that will meet the requirements;

(4) An identification of the audit standards, if any, with which the State will not comply and the reasons why the State cannot comply with the standard;

(5) Procedures for reporting audit findings and conducting exit interviews; and,

(6) Audit resolution and clearance policies of the State.

c. *Audit Coverage.* The Office of Management and Budget requires that States must ensure that audits are performed to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements governing the grantor agency programs (financial/compliance audit). The necessary coverage is specified in the GAO Guidelines for Financial and Compliance Audits of Federally Assisted Programs and the related compliance supplements referenced in paragraph 105f.

d. *Reporting.* A written report shall be prepared upon completion of the audit and three (3) copies furnished to the appropriate grantor agency's Office of Audit and Investigation Area Office, all of which are identified in Figure 8-1. Release of audit reports shall be in accordance with applicable Federal and State laws.

Figure 8-1.—*Addresses of Grantor Agency Office of Audit and Investigation Field Offices*

Field offices	Geographical area responsibility
1. *Atlanta:* Atlanta Area Audit & Program Review Office, Office of Audit and Investigation, LEAA, U.S. Department of Justice, 101 Marietta Street, Suite 2322, Atlanta, Georgia 30323 (Com.) 404/221-5928; (FTS) 8/242-5928.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Puerto Rico, Tennessee, Virgin Islands.
2. *Chicago:* Chicago Area Audit & Program Review Office, Office of Audit and Investigation, LEAA, Department of Justice, 175 W. Jackson Street, Suite A-1335, Chicago, Illinois 60604 (Com.) 312/353-1203; (FTS) 8/353-1203.	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin.
3 *Denver:* Denver Area Audit & Program Review Office, Office of Audit and Investigation, LEAA, U.S. Department of Justice P.O. Box 3119, Denver, Colorado 80201 (Com.) 303/837-2501; (FTS) 8/327-2501.	Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming.
4. *Sacramento:* Sacramento Area Audit & Program Review Office, Office of Audit and Investigation, LEAA, U.S. Department of Justice, P.O. Box 3010, Sacramento, California 95812 (Com.) 916/440-2131; (FTS) 8/448-2131.	Alaska, Arizona, Calif., Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, Trust Territories of the Pacific Islands, Commonwealth of Northern Marianna Islands.
5 *Washington:* Washington Area Audit & Program Review Office, Office of Audit and Investigation, LEAA, U.S. Department of Justice, 633 Indiana Avenue, N.W. Washington, D.C. 20531 (Com.) 202/492-9010; (FTS) 8/492-9010.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Puerto Rico, Virgin Islands.

e. *Resolution and Clearance of Audit Reports.* Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each CJC shall, therefore, provide policies for acting on audit recommendations by designating officials responsible for: follow-up, maintaining a record of the action taken on recommendations and time schedules, reponding to and acting on audit recommendations, and submitting periodic reports to the grantor agency on recommendations and action taken. These policies must be consistent with the provisions contained in the effective edition of LEAA Guideline 7140.1. Distribution, Resolution, and Clearance of Audit Reports.

108. *Audit of Subgrantees.* In accordance with Office of Management and Budget Circular A-102 and A-110, it is the grantor agency's policy that the CJC require that each of its subgrantees' financial management system provide for an examination on the form of an independent audit to asertain the effectiveness of the financial management system and internal procedures that have been established to meet the terms and conditions of the subgrant (financial and compliance audit). Also, the subgrantees' organization is required to have a systematic method of timely and appropriate resolution of audit findings and recommendations. These requirements are applicable to both subgrants awarded from block, formula and categorical grant funds.

The audits should be performed in accordance with the Standards for Audit of Governmental Organizations, Programs, Activities and Functions and be made on an organization-wide basis which includes an appropriate sample of Federal subgrants. The audits must be performed not less frequently than every two years and include grantor agency subgrant awards in the sample of Federal subgrants.

a. *Requirement.* The State is required to develop the policies, procedures and controls necessary to assure that subgrantee organizations receiving grantor agency funds have the required financial and compliance audits performed.

b. *Reporting.* The State shall make such arrangements as necessary to obtain copies of all reports prepared as a result of the required audits nad establish a system that assures the timely and appropriate resolution of such reports by subgrantees. Known or suspected violations of any laws encountered during audits, including fraud, theft, embezzlement, forgery or other serious irregularities, must be communicated to the grantor agency's Office of Audit and Investigation (see the effective edition of LEAA Guideline 7140.2, Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities).

If any grantor agency categorical grants are included in the audits, the related reports must be submitted to the grantor agency's Office of Audit and Investigation consistent with the requirement of the effective edition of LEAA Guideline 7140.1.

109. *Categorical Grant Audits.*—a. *Grants Awarded to State Agencies.* When grants are awarded to State Agencies and are subgranted to another organization for implementation, the audit requirement as set forth in paragraph 108 of this chapter must be fulfilled.

b. *Direct Awards.* When grants are awarded directly to governmental units (those grants not awarded through the CJC) or non-profit organizations, the audit responsibility must be fulfilled by the grantee. Each grantee must provide for an examination in the form of an audit to ascertain the effectiveness of the financial management system and internal procedures that have been established to meet the terms and conditions of the grant (financial and compliance audit). Also, the grantee's organization must provide for the timely and appropriate resolution of audit findings and recommendations.

The audits should be performed in accordance with the GAO Standards for Audit of Governmental Organizations,

Programs, Activities and Functions and made on an organization-wide basis which includes an appropriate sample of Federal grants. The audits must be performed not less frequently than every two years and SHALL include a grantor agency award in the sample of Federal grants.

When direct awards ar subgranted to another organization(s) for implementation, the audit requirement as set forth in paragraph 108 of this chapter must be fulfilled. A written report shall be prepared upon completion of the audit and three (3) copies furnished to the appropriate grantor agency's Office of Audit and Investigation Area Office, all of which are identified in Figure 8–1. Release of audit reports shall be in accordance with applicable Federal and State laws. The report shall contain narrative statements, tabulations, schedules or other pertinent data disclosing the deficiencies found and recommendations needed to correct and/or prevent recurrence of the deficiencies. In additon, the reports shall identify the officials with whom the contents of the report were discussed and whether or not the officials concurred with the findings. Known or suspected violations of any laws encountered during audits, including fraud, theft, embezzlement, forgery or other serious irregularities, must be communicated to the grantor agency's Office of Audit and Investigation (see the effective edition of LEAA Guideline 7140.2, Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or Other Serious Irregularities).

110. *Technical Assistance.* The Office of Audit and Investigation is available to provide technical assistance to grant recipients in implementing the audit requirements of this chapter. This assistance is available for areas such as: (i) review of the audit arrangements and/or negotiations; (ii) review of the audit program or guide to be used for the conduct of the audit; and, (iii) on-site assistance using the performance of the audit when deemed necessary as a result of universal or complex problems that arise. In addition, the Office of Audit and Investigation provided training courses for the performance of audits on Agency grant programs at the State and local levels.

Requests for technical assistance or scheduled for the training courses should be addressed to the appropriate Office of Audit and Investigation Area Office identified in Figure 8–1.

Appendix 9.—Details of an Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and ensuring that an adequate system exists for each of its subgrantees and contractors.

a. *Elements of Accounting System.* Accounting systems are made up of a series of operations which involve classifying, recording, summarizing, and reporting transactions. Elements of the system must consist of an account structure, accounting records, source documents, a system for coding financial transactions, and written procedures prescribing the manner in which and by whom these operations are performed. A grantee's accounting system must include the following:

(1) System coding or classification must permit summarization and reporting of grant expenditures by specific programs, projects, uniform receipt and expenditure classifications, and major steps funded in the approved budget cost categories.

(2) Accounting records should adequately identify the receipt and the expenditures of each grantee, subgrantee or contractor.

(3) Accounting records, which must include a ledger and supporting books of account, should refer to subsidiary records or documentation which support each entry and which can be readily located and identified with the grant.

(4) Accurate, current, and complete financial reporting information.

(5) Systems integration with an adequate system of internal controls to safeguard grant funds and properties, check the accuracy and reliability of accounting data, promote operational efficiently, and encourage adherence by the grantee to prescribed management policies.

b. *Bases of Accounting System.* Generally, an accounting system is one of three bases:

(1) *Cash Basis*—Expenses are recorded when cash is spent and revenues are recorded when cash is received. This system provides little information on which to base expenditure planning.

(2) *Obligation Basis*—Where expenses are recorded when the funds are obligated. This system is little used and is not preferred.

(3) *Accrual Basis*—Revenues are recorded when goods or services are delivered and expenses are recorded when goods or services are consumed without regard to the timing of the exchange of cash. This system is preferred because it best matches revenues and expenses with the period in which they are actually earned or accrued. Accrual accounting also contains information on the receipt and disbursement of cash.

c. *Internal Controls.* The grantee must establish and maintain a system of internal controls adequate to safeguard grant funds and resources, check the accuracy and reliability of the grant accounting and financial data, promote the operational efficiency of the grantee, and encourage adherence to the grantee's prescribed managerial policies.

Appropriate internal controls are comprised of a plan of organization (grantee policies, structure, division of staff functions, procedures, staff qualifications, etc.) designed to provide the grantee with effective financial and operational control over both its grant programs or projects.

The degree of internal control is dependent upon the size of the grantee and the funds and resources for which the grantee is responsible. The following criteria are basic to an adequate system of internal control:

(1) Operating policies must be clearly stated; systematically communicated throughout the organization; in conformance with applicable laws and external regulations and policies; and designed to promote the execution of authorized activities effectively, efficiently, and economically.

(2) Organizational structure must define and assign responsibility for the performance of all duties necessary to carry out the functions of the grantee.

(3) Responsibility for assigned duties and functions of the grantees must be classified according to authorization, performance, record keeping, custody of resources, and review, to provide proper internal checks on performance and to minimize unauthorized internal checks on performance and to minimize unauthorized, fraudulent, or otherwise irregular acts.

(4) A system of forward planning, embracing all phase of the grantee's operation, must be developed to determine and justify financial, property, and personnel requirements and to carry out grant operations effectively, efficiently, and economically.

(5) Grant procedures ought to be simple, efficient, and practical, giving due regard to the nature of the grant and applicable legal and regulatory requirements. Feasibility, cost, risk of loss or error, and availability and suitability of personnel are factors that should be considered in formulating the procedures.

(6) An adequate system of authorization, record keeping, and transaction coding procedures must be designed by the grantee to ensure compliance with prescribed grant requirements and restrictions of applicable laws, regulations, and internal management policies; to prevent illegal or unauthorized transactions; and to provide proper accounting records for the expenditure of grant funds.

(7) An adequate and efficiency operated information system must be designed to provide prompt, essential, and reliable operating and financial data to the grantee responsible for decision-making and performance review.

(8) The performance of all duties and functions of grantee personnel must be properly supervised. All performance must be subject to adequate review under an effective internal audit program to determine whether performance is effective, efficient, and economical; management policies are observed; applicable laws, prescribed regulations, and grant conditions are obeyed; and regulations, and unauthorized, fradulent, or otherwise irregular transactions or activities are prevented or discovered.

(9) The qualifications of officials and employees with regard to education, training, experience, competence, and integrity must be appropriate for the responsibilities, duties, and functions assigned to them.

(10) Each official and employee must be fully aware of his/her assigned responsibilities and understand the nature and consequences of his/her performance. Each must be held fully accountable for the honest and efficient discharge of his/her duties and functions, including, where applicable, the custody and administration of funds, property, and compliance with grant regulations and legal requirements.

(11) Effective procedures must be implemented for expenditure control to ensure that needed goods and sevices are acquired at the lowest possible cost; that goods and services paid for are actually received; that quality, quantity, and prices are in accordance with applicable contracts or other authorizations by grant officials; that such authorizations are consistent with applicable statutes, regulations, policies, and grant requirements.

(12) All funds, property, and other resources for which the grantee is responsible must be appropriately safeguarded and periodically inventoried to prevent misuse, unwarranted waste, deterioration, destruction, or misappropriation.

d. *Management System.* The grantees should also have a management system meeting the following criteria:

(1) Established State, local government, and organization administrative and fiscal practice and policies must be followed by subordinate bodies in the administration of Federal grant funds.

(2) When no established policies and practices govern, reasonable and prevailing administrative and fiscal practices in the area (preferably adapted from public practice) shall be formally adopted and made a matter of record. The record will contain documentation showing that the standards of reasonableness and prevailing practice have been met.

(3) Administrative and fiscal policies must be applied consistently regardless of the source of funds.

e. *Budget and Accounting.*—(1) Establish indirect cost budgets on a basis consistent with the way resources are to be consumed and accounted for.

(2) Record all applied direct costs in work accounts on a basis consistent with the budgets in a formal system that is controlled by the general books of account.

f. *Analysis by the Grantee.*—(1) Identify at he work account level on a monthly basis using data from, or reconcilable with, the accounting system:

(a) Budgeted cost for work scheduled and budgeted cost for work performed.

(b) Budgeted cost for work performed and applied direct costs for the same work.

(c) Variances resulting from the above comparisons classified in terms of labor, materials, or other appropriate elements together with the reasons for significant variances.

(2) Identify on a monthly basis in the detail needed by management for effective control, budgeted indirect costs, actual indirect costs and variances along with the reasons therefor.

(3) Summarize the data elements and associated variances listed in 1 and 2 above through the grantee organization and to the reporting level specified in the grant.

(4) Identify on a monthly basis significant differences between planned and actual technical performance together with the reasons therefor.

(5) Identify managerial actions taken as a result of the above.

(6) Monitor the effectiveness of actions taken to resolve problems or correct deficiencies.

(7) Based on performance to date and on estimates of future requirements, develop revised estimates of cost at completion for elements identified in the grant and compare these with the grant baseline budgets, with current budgets.

g. *Revisions and Access to Data.* (1) Incorporate grant changes in a timely manner recording the effects of such changes in budgets and schedules.

(2) Prohibit retroactive changes to records pertaining to work performed that will change previously reported amounts for applied direct costs, or indirect costs, except for correction of errors and routine accounting adjustments.

(3) Prevent revisions to the grant budget baseline except for Government-directed changes to authorized effort, that is, scope, work, and schedules.

(4) At the time changes occur, advise the grantor agency of any changes to baseline budgets or schedules.

(5) The duly authorized representatives of the grantor agency shall be provided access to all of the foregoing information and records in support thereof.

h. *Personnel and Compensation.* (1) The organization will operate under a comprehensive plan that includes a scale of rates or ranges based upon the responsibilities of each position and its relationship to other positions.

(2) Compensation paid shall be reasonable. Compensation will be considered reasonable if it is a public compensation plan prescribed for the grantee, or if it is comparable to that paid for similar work in the labor market in which the grantee must compete for the kind of employees involved.

(3) The compensation plan must include provisions concerning weekly hours of work; payment, if any, for overtime work; prior approval of all overtime work; and provisions establishing for each authorized part-time position the number of hours to be served each pay period by the incumbent.

(4) Fringe benefits. In the absence of an applicable public fringe benefit plan, fringe benefits extended to employees must be reasonable and of general application. Fringe benefits will be considered reasonable if they are comparable to the benefits extended to employees of similar organizations in the same area.

i. *Safeguarding of Assets.* All funds, property, and other resources for which the grantee is responsible shall be appropriately safeguarded and periodically inventoried under appropriate policies and procedures.

Appendix 10. Guideline on LEAA Revolving Funds

1. *Purpose.*—This appendix sets forth the responsibilities and procedures for

the operation of the LEAA Revolving Fund established by Title I, Part F, Section 521(e) of the Omnibus Crime Control and Safe Streets Act of 1968 as amended and by Title I, Part H, Section 817(f) of the Justice System Improvement Act of 1979.

2. *Scope.*—This appendix applies to a Block Action, Part D formula or Parts E or F Grant that has as its primary function the acquisition of stolen goods and property.

3. *Effective date.*—This appendix applies to all applicable Block Action and Discretionary Grants in operation as of October 15, 1976 or Part D formula or Parts E or F grants awarded thereafter. Any project income realized after October 15, 1976 would be subject to this Guideline.

4. *Management.*—The LEAA Revolving Fund will be financially managed by the Comptroller's Office with appropriate program support from the LEAA. However, the individual CJCs will have the responsibility for identifying Block Action or Part D formula grants subject to this Guideline and also for forwarding the pro rata Federal share of project income to the LEAA Revolving Fund.

5. *Procedures for the Operation of the revolving fund.*—The following steps will be taken by all grantees or subgrantees having project operations.

a. *Property Record.* All grantees or subgrantees will keep a "Property Record" of all stolen goods or property acquired by project operations. (1) Such records will include, at a minimum, the following information. (a) Grantee/subgrantee name and grant number.

(b) Type of Property, brand or business name, and identification number(s), e.g., Kodak XL Movie Camera, Serial #206365 or Bank Americard #42327330007350.

(c) Amount of project funds expended to acquire each item of stolen goods or property.

(d) Estimated retail value of each item of stolen goods or property acquired by project operation.

(e) Date stolen goods or property was acquired by the project.

(f) Original owner of stolen property if identified.

(g) Name of insurance company for insured stolen goods or property if identified.

(h) Status of property recovered; e.g., held for evidence; claimed by owner; held for sale or auction; etc.

(2) The grantee or subgrantee will forward a copy of the completed Property Record to LEAA, 633 Indiana Avenue, N.W., Washington, D.C. 20531, within 60 days after the termination date of each separate operation during the life of the grant.

b. *Project Income.* All income generated by the project, which includes but is not limited to, the income from operation of an undercover front business, the sale of unclaimed stolen property, may be RETAINED by the grantee or subgrantee and NOT sent to the LEAA Revolving Fund providing: (1) The grant (including continuation funding) is still active and has an undercover operation still functioning or being developed;

(2) The grantee or subgrantee is not prohibited by state or local laws or regulations from adding the income back into the grant; and,

(3) The grantee or subgrantee agrees to add the income to the confidential expenditure (buy money) category of the budget.

If a grantee or subgrantee cannot abide by the above criteria, then the income MUST be sent to the LEAA Revolving Fund. Also, income not expended at the termination of the grant and any income received after such termination must be forwarded to the LEAA Revolving Fund. This income should be returned to the LEAA Revolving Fund according to the percentage of Federal funds in the grant.

c. *Royalties.* Funds arising from the sale, by the grantee or subgrantee or project participants in the grant, of publication or film rights resulting from the project, must be submitted to the LEAA Revolving Fund. This applies to royalties earned during the grant period or after the grant is terminated.

d. *Sale of Unclaimed Stolen Goods or Property.* Grantees or subgrantees are responsible for the storage and sale of unclaimed stolen goods or property. The normal expenses incurred by the grantee or subgrantee for the storage and sale of unclaimed stolen goods or property may be deducted from the funds received from the sale. The remaining funds will be considered income.

e. *Submitting Funds to the LEAA Revolving Fund.* Funds to be submitted to the LEAA Revolving Fund should be by checks made out to the "LEAA Revolving Fund" and mailed to the Office of the Comptroller, OJARS, 633 Indiana Avenue, N.W., Washington, D.C. 20531. IT IS IMPORTANT that no other project related documents be included with the check.

f. *Disbursements from the LEAA Revolving Fund.* Monies in the Revolving Fund will be disbursed by the award of categorical grants in support of the LEAA Anti-Fencing sub-program.

6. *Claims against owners of recovered stolen property.*—Section 521(e) of the Crime Control Act, as amended, and Section 817(f) of the Justice System Improvement Act of 1979, gives the Administrator the authority in his discretion to assert a claim against owners of recovered stolen property in the amount of Federal funds used to purchase such goods or property. This authority will only be exercised when the equities and the circumstances properly warrant it.

7. *Coordination.*—All contact with LEAA relative to this, the Revolving Fund in general, or the LEAA Anti-Fencing sub-program, should be made to the LEAA.

Appendix 12. Guidelines for Confidential Expenditures

Confidential funds are those funds allocated to three types of law enforcement undercover operations.

1. The first category is confidential investigative expenses for purchase of services (P/S) and would include travel or transportation of a non-federal undercover officer or an informant. The lease of an apartment, business front, luxury-type automobiles, a boat or aircraft or similar affects to create or establish the appearance of affluence, credibility and a general atmosphere conducive to the undercover role would also be in this category. Meals, beverage, entertainment and similar expenses for undercover purposes, within reasonable limits, would also be included.

2. The second category is confidential funds for the Purchase of Evidence (P/E). This category would include the purchase of evidence and/or contraband such as drugs, firearms, stolen property, counterfeit tax stamps, etc., required to determine the existence of a crime or to establish the identity of a participant in a crime.

3. The third category is confidential funds for the Purchase of Specific Information (P/I) from informants. All other informant expenses would be confidential investigative expenses (P/S) and would be charged accordingly.

Confidential expenditures are subject to prior approval by the grantor agency. Such approval will be based on a finding that they are necessary and reasonable for proper and efficient administration of the program under which they are to be used. In this conjunction, the grantor agency will make a finding also that the controls over the disbursement are adequate to safeguard misuse of such funds.

1. Confidential expenditures will be authorized for subgrants at the State, county, and city level of law enforcement. For the purpose of this expenditure, a city will be defined as having a population in excess of 50,000.

2. The maximum amount of confidential funds allowable within a grant shall be based upon the following criteria: (a) Unprogrammed Funds—(funds not committed to specific undercover/investigative operations)—15% of total project amount.

(b) Programmed Funds—(funds committed to specific undercover/investigative operations, e.g., anti-fencing ["store-front"])—limit based upon projected needs for the specific operation or operations.

3. The funds authorized will be established in an imprest fund controlled by a bonded cashier.

4. The project director in which the imprest fund is assigned must authorize all advances of funds up to $500 to agents or officers for the purchase of information. Advances and payments in excess of $500 must be approved by the head of the law enforcement unit to which the subgrant was made. Such authorization must specify the information to be received, the amount of expenditures, and assumed name of informer.

5. There must be maintained by the investigation unit confidential files of the true names, assumed names, and signature of all informers to whom payments of confidential expenditures have been made. To the extent practicable pictures and/or fingerprints of the informer payee should also be maintained.

6. The cashier shall receive from the agency or officer authorized to make a confidential payment, a receipt for cash advanced to him for such purposes.

7. The agent or officer shall receive from the informer payee a receipt of the following nature:

Figure 1. Receipt from Informer Payee

Receipt

For and in consideration of the sale and delivery to the (State, County, or City of ——— of information or evidence identified as follows:

_____

_____

_____

I hereby acknowledge receipt of $ ——, paid to me by

(State, County, or City) of

———.

Date: —— Signature: ———

_____

*(Witness, if any)

*The witness requirement will not in all instances be mandatory, depending on the nature of the meeting and exchange of funds. A requirement should be in effect that on 25 percent of the contracts, when payments are made, a second agent appear as the witness to the transaction. In addition, on 10 percent of the meetings the agent or officer in charge should be present to verify the payment to the informer.

8. The signed receipt from the informer payee with a memorandum detailing the information received shall be forwarded to the agent or officer in charge. The agency or officer in charge shall compare the signature on the receipt with the confidential file of assumed name signatures. He shall also evaluate the information received in relation to the expense incurred, and add his evaluation remarks to the report of the agent or officer who made the expenditure. A certification of payment to the cashier will serve as support for the expenditure from the imprest fund. The certification will be witnessed by the agent or officer in charge on the basis of the report and informer payee's receipt.

9. Each grant or officer in charge shall prepare a quarterly report showing status and reconciliation of the imprest fund and itemizing each payment, name used by informer payee, information received and use to which information was put. This report must be made part of the files and reviewed quarterly by the head of the law enforcement agency to which the subgrant was made.

10. Each instance when grant funds are used for confidential expenditures, it will be understood that all of the above records, except the true name of the informer, are subject to the record and audit provisions of the grantor agency legislation.

As previously stated, confidential expenditures from Block Part C or Part D formula funds will be allowable only with the specific prior approval of the grantor agency. Such approval must be obtained from the grantor agency by the CJC or subgrantee. The submission for approval must contain the following information:

1. Identity of subgrant and project, and estimated amount of funds to be used for confidential expenditures;

2. Identity of the agent or officer in charge of investigation and name of the bonded cashier; and,

3. A copy of the grantee/subgrantee written procedures to be used to safeguard these funds if they differ from the grantor agency's procedures.

Figure 2. Certification

(Appropriate Office Head)
(Name, Position, Grant Title, Location and Number)
Disbursement of Funds for Confidential Expenditures

This is to certify that I have read, understand and agree to abide by all of the conditions for confidential expenditures as set forth in chapter 5, paragraph 63 and Appendix 12 of the effective edition of Guideline Manual 7100.1, Financial and Administrative Guide for Grants.

DATE ——

SIGNATURE ——— (project director).

Appendix 13. Statutory and Regulatory Requirments Applicable to a Criminal Justice Council (CJC)

I. Statutory and Regulatory Requirements Which Must Be Audited (Mandatory)

1. *General Fiscal Controls.*—Review, test and evaluate the CJC's: a. Organizational structure, delegations of authority and functional statements to determine whether fiscal duties and responsibilities have been adequately defined and there is an adequate separation of finance and accounting duties and responsibilities.

b. Accounting system and account structure, including the necessary interrelationships with the State's central accounting system, to ensure that the accounting system will provide for: (1) Receipt, disbursement and expenditure of each grant award, including all matching contributions and, where applicable, program income, interest and refunds from subgrantees, in accordance with grantor agency reporting requirements;

(2) Comparison of actual with budgeted amounts for each grant; and

(3) Accounting records which are supported by source documentation.

c. Procedures for preparing, verifying and submitting accurate and timely financial reports to the grantor agency.

d. Policies and procedures for supervising and monitoring the financial affairs of its subgrantees insofar as they relate to programs or projects for which planning, block action, JJDP and discretionary/program funds have been made available. In this regard, the auditor should determine whether: (1) Adequate fiscal guidelines have been developed and disseminated to inform subgrantees of their responsibilities with respect to accounting for and managing subgrant funds;

(2) Adequate policies, procedures and plans have been developed and implemented for on-site financial monitoring of subgrantees;

(3) Adequate controls have been developed and implemented for the receipt and verification of subgrantees fiscal reports; and

(4) Adequate controls over the purchase, use and disposition of

nonexpendable property at the subgrantee level have been developed and implemented.

2. *CJC Fiscal Operations.*—Review, test and evaluate the CJC's fiscal policies, procedures and actual practices, as necessary, to determine compliance with the following requirements.

a. Federal ratios of participation in the funding of planning, action and JJDP programs and projects;

b. Expenditure of funds in accordance with grantor agency guidelines governing the allowability and allocability of costs applicable to agency grants;

c. Expenditure of planning, action and JJDP funds in accordance with the applicable budgets approved by the grantor agency;

d. Proper obligation and expenditure of funds within the prescribed grant periods;

e. Drawdown, receipt and deposit of federal funds under the letter of credit authority;

f. Utilization and disposition of nonexpendable property acquired in whole or in part with grant funds; and

g. Standards for the procurement of supplies, equipment, construction, and other services with grant funds.

3. *Performance of Planning and Other Responsiblities Under the Grant.*—Review the CJC's policies, procedures and actual practices, as necessary, to verify the correctness of data contained in its latest grant application submitted to the grantor agency relative to:

a. State assumption of cost;

b. Entitlement vs. non-entitlement;

c. The CJC's strategy for monitoring the implementation, operation, and results of all the projects its supports and for intensively evaluating the results and impact of selected activities;

d. The special planning requirements for CJC's which participate in the JJDPA programs; and

e. The requirements under Title VI of the Civil Rights Act of 1964 and the equal employment opportunity regulations of the Department of Justice.

4. *Special Requirements to be Met in the Comprehensive Plan.*—Review the CJC's policies, procedures and actual practices, as necessary, to verify the correctness of data contained in its latest comprehensive plan submitted to the grantor agency relative to:

a. Maintenance of effort for juvenile justice under the Crime Control Act;

b. Equitable distribution of funds under the JJDP Act within the state;

c. Use of at least 75 percent of the JJDP Act funds for support of advanced techniques in the area of juvenile justice.

5. *Special and General Grant Conditions and Assurances.*—Determine, as appropriate, whether the CJC complied with the special and general conditions and assurances imposed on each grant received during the audit period.

6. *Audit of Subgrantees.*—Due to the variability of program structures and agencies receiving subgrant funds, it is not possible to identify all the possible areas of coverage to cover all subgrantees. However, certain broad areas of audit coverage, that would apply to most subgrantees, can be prescribed. These areas are as follows:

a. Determine the adequacy of the subgrantee's accounting system, with specific emphasis on the following points, if applicable:

(1) The accounting system provides for the necessary fiscal controls to safeguard the funds and assets covered;

(2) The accounting system provides the separation needed to adquately identify the receipt of funds under each subgrant awarded and the expenditure of funds for each subgrant;

(3) The accounting system provides for the reporting of total expenditures for each subgrant by approved budget categories;

(4) Entries in summary records refer to subsidiary records and/or source documents which can be readily identified and located; and

(5) The accounting records provide accurate and current financial reporting information.

b. Perform the tests necessary to determine the allowability of costs on the basis of the appropriate local/state and Federal laws and regulations and generally accepted practices.

c. Determine whether the project was carried out in accordance with the programmatic intent as defined in the project's subgrant application.

d. Determine compliance with the special and general subgrant conditions and assurances imposed upon the subgrant award.

e. Determine whether subgrant funds were properly obligated and expended within the prescribed subgrant period and approved budget.

f. Determine whether the subgrantee contributed the required matching contributions as stated in the subgrant application.

g. Where applicable, determine whether project income was properly accounted for and applied toward the project goals and objectives.

h. Where applicable, determine whether all procurements (including the purchase of services) made under the project were in accordance with local/state and Federal procurement standards.

i. Where applicable, determine compliance with local/state and Federal property management, control and disposition requirements.

j. Determine whether cash-in-hand was limited to meet the immediate operating needs of the project.

k. Determine compliance with the special grantor agency requirements relative to the Civil Rights Act and Equal Employment Opportunity Regulations.

l. For audits of subgrantees receiving planning funds, ascertain whether the local/regional planning office has complied with the State Agency and grantor agency requirements governing their administrative and functional responsibilities relative to:

(1) Planning;

(2) Monitoring and evaluating, where applicable;

(3) Operations and functions of the local/regional planning councils including any committees thereof; and,

(4) Public accessibility to council and committee meetings and the maintenance of minutes of such meetings.

7. *Follow-up on Prior Audits.*—Review the actions taken on the findings and recommendations contained in the previous audit report on the CJC.

a. Where no corrective actions have been taken, determine whether the problems still exist and whether there is still a need for remedial actions. If so, describe the situations and include appropriate recommendations for remedial actions.

b. Where CJC officials advised the grantor agency that corrective actions have been taken, review the actions taken. Based upon inquiry, observation and test, determine whether the actions taken eliminated the problems. If the problems still exist, describe the situation and indicate what further actions are required.

II. *Statutory and Regulatory Requirements to be Audited as Deemed Necessary and Appropriate by the Auditor.*

1. *CJC Fiscal Operations.*—Review, test and evaluate the CJC's fiscal policies, procedures and actual practices, as necessary, to determine compliance with the following requirements:

a. Pass-through of planning and Part C block funds to local units of government.

b. Buy-in of the non-Federal funding required of units of general local government;

c. Source, type and timing of hard match provided under each planning

block action, JJDP and discretionary grant;

d. One-third personnel limitation on use of Part C action grant funds;

e. Non-supplanting of state or local funds;

f. Special limitations on funding construction projects under block action, discretionary and JJDP grants; and,

g. Twenty percent contract limitation on use of planning funds.

2. *Performance of Planning and Other Responsibilities Under the Grant.*—Review the CJC's policies and actual practices, as necessary to verify the correctness of data contained in its latest grant application submitted to the grantor agency relative to the creation, organization, membership (selection/composition), responsibilities and operation of state judicial planning committees and their relationship to the CJC;

3. *Special Requirements to be Met in the Comprehensive Plan.*—Review the CJC's policies, procedures and actual practices, as necessary, to verify the correctness of data contained in its latest comprehensive plan submitted to the grantor agency relative to:

a. Continuation support for programs funded under the JJDP Act;

b. The CJC's program of technical assistance or services for criminal justice operating agencies within the state.

Henry S. Dogin,

Acting Director, Office of Justice Assistance, Research, and Statistics.

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Part IV

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare and Medicaid; Utilization Review

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405, 440, 456 and 482

Medicare and Medicaid; Utilization Review

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: These regulations would revise utilization review procedures for hospitals that participate in the Medicare and Medicaid programs and establish procedures for facilities or programs that provide inpatient psychiatric services to Medicaid recipients under 21 years of age. They would establish standards for conducting review of the health care provided to patients eligible under the two programs, as required by sections 1861, 1902 and 1903 of the Social Security Act.

These requirements would apply only to hospitals; proposed revisions of procedures for skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) would be published later. The intent of the regulations is to ensure that services paid for under Medicare or Medicaid are medically necessary and appropriate.

DATE: We will consider written comments or suggestions received by May 2, 1980.

ADDRESSES: Please address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17082, Baltimore, Maryland 21235.

In commenting, please refer to HSQ-09-P. Organizations and agencies are requested to send comments in duplicate to indicate the particular section referred to by each comment. Comments will be available for public inspection, beginning approximately 2 weeks from today, in Room 5220, at our offices at 330 C Street, S.W., Washington, D.C., on Monday through Friday from 8:30 a.m. to 5:00 p.m. (202-245-0365).

FOR FURTHER INFORMATION CONTACT: Alan Reider, 301-594-3980.

SUPPLEMENTARY INFORMATION:

Background

Medicare and Medicaid hospital providers for which a Professional Standards Review Organization (PSRO) has not assumed binding review responsibility are required to conduct utilization review (UR) as a condition of participation and Federal payment. (There are approximately 3,000 such hospitals.)

The purpose of the UR and PSRO programs is similar: to assure that health care services for which payment may be made in whole or in part under Medicare and Medicaid are medically necessary and appropriate, and are delivered in the most effective, efficient, and economical manner possible.

The UR program is based on two fundamental concepts of health care review: that physicians are the most appropriate individuals to assess medical care, and that peer review of health care is an effective and appropriate means of ensuring that care is properly utilized. Using these concepts as a foundation, physicians, and where appropriate, other health professionals, are responsible, through the UR committee, for fulfillment of the two major goals of the UR program: (1) assuring proper utilization of health care facilities and services at the most economical level consistent with professional standards, and (2) identifying utilization problems in health care practices and working toward their improvement.

Hospital review is divided into two areas: (1) review of services provided to individual patients, and (2) review of patterns of delivery of health care services. Review of patient services includes admission and continued stay reviews. Admission review determines the medical necessity of the proposed health services and the appropriateness of providing them in a hospital setting. Continued stay review determines the medical necessity and appropriateness of continued hospital care. Patterns of health care service delivery are reviewed through Medical Care Evaluation (MCE) studies, which are indepth reviews of health care services delivery and medical management practices.

Revised final Medicare and Medicaid UR regulations were published in the Federal Register on November 29, 1974 (39 FR 41605, 41610), and became effective July 1, 1975. The effective date of portions of those regulations was delayed by a preliminary injunction issued on May 27, 1975, by the United States District Court for the Northern District of Illinois, in the case of *American Medical Association et al. v. Weinberger*, 395 F. Supp. 515 (N.D. Ill., 1975) and affirmed by the United States Court of Appeals for the 7th Circuit on July 23, 1975 (522 F. 2d 921 (7th Cir., 1975)). The Department published notices to that effect on August 6, 1975 (40 FR 33033, 33036). The Department announced its intent to revise the hospital UR regulations on September 10, 1975 (40 FR 42006), and issued a new notice of proposed rulemaking on March 30, 1976 (41 FR 13452).

On April 1, 1976, an amendment made by Pub. L. 94-182 to one of the UR provisions of the Medicaid statute, section 1903(g)(1)(C), became effective. Section 1903(g)(1) requires a reduction in Federal financial participation (FFP) unless a State "makes a showing satisfactory to the Secretary" that there is in operation in the State an effective program of control over utilization of institutional services. Part of this "showing" is evidence of a continuous program of UR as specified in paragraph (C) of section 1903(g)(1).

The major changes made by P.L. 94-182 to section 1903(g)(1)(C) were: (1) imposition of conflict of interest restrictions on those who establish criteria to be used in UR; (2) a requirement that other professional personnel participate in establishing these criteria; (3) elimination of an explicit requirement for continued stay review; (4) elimination of an explicit conflict of interest restriction on those who perform review; and (5) substitution of screening for review in certain cases. These statutory changes, as well as policy developments, public comments, and Federal initiatives to improve Government regulations, resulted in withdrawal of the 1976 proposed UR regulations on June 7, 1978, (43 FR 24715) and issuance of these newly proposed UR regulations.

Summary of the Proposed Regulations

The proposed regulations provide requirements for the establishment of a UR plan and conduct of a UR program in hospitals participating in the Medicare or Medicaid programs, and in mental hospitals and facilities or programs providing inpatient psychiatric services to individuals under 21 participating in Medicaid. (We use "hospital" in this preamble to refer to all of these facilities.) The requirements under the proposed regulations can be divided into three principal areas: scope, UR committee functions, and process.

A. Scope

These proposed regulations set forth the basic requirement that each hospital participating in Medicare or Medicaid and not under binding PSRO review must have a UR plan in effect that meets all of the requirements of Subpart F of proposed Part 482. (The development and carrying out of this UR plan is the hospital's UR program.) Each hospital is responsible for its UR program, including the establishment of a UR

committee to carry out the functions of the program.

We are proposing in these regulations to allow a group of hospitals to establish a single UR program. We are also proposing to allow, in certain specified circumstances, a substitution of other UR procedures.

B. Committee Functions and Requirements

The proposed regulations provide for the establishment of a UR committee which will be responsible for all functions of the UR program. The committee must establish criteria and select norms to be used in determining medical necessity of admissions, continued stays, and elective procedures. It will be responsible for the review of admissions, continued stays, and elective procedures, to assure medical necessity and appropriateness of care. If the committee cannot establish medical necessity or appropriateness of care, it will be responsible for issuing a notice of adverse decision. The adverse decision will recommend that the patient's admission, continued stay, or elective procedures not be approved for payment under Medicaid. The adverse decision is binding for payment purposes under Medicare. The committee will also be responsible for conducting Medical Care Evaluation [MCE] studies for the purpose of identifying changes necessary to improve the effectiveness and efficiency of the utilization of services.

C. Process

The proposed regulations set forth two major review components;

(1) concurrent review of the medical necessity and appropriateness of admissions and continued stays; and

(2) Medical Care Evaluation (MCE) studies to improve the nature of the utilization of health care services.

1. Concurrent Review

a. *Admission Review.* The committee is responsible for evaluating each admission to the facility to assure that the admission is medically necessary and at the appropriate level of care. Each admission is screened using criteria, developed by the committee, designed to ascertain the medical necessity and appropriateness of the admission. If an admission falls within the screen, the admission is approved; if not, the case must be reviewed by a peer of the attending practitioner. If, in the judgment of the peer reviewer, medical necessity and appropriateness are established, the committee must approve the admission. If the peer reviewer does not establish medical necessity and appropriateness, he must consult with the attending practitioner to resolve any disagreement. If the consultation does not resolve the issue, a second peer reviewer must be consulted. If the second reviewer finds that medical necessity and appropriateness are established, the committee must approve the admission; if not, the committee must issue a notice of adverse decision.

b. *Continued Stay Review.* Whenever an attending practitioner wishes to keep his patient in the hospital for a longer period than initially approved, that continued stay must be reviewed by the committee. The process of continued stay review is identical to that for admission review.

c. *Elective Procedure Review.* If the purpose of admission is to perform an elective procedure, the committee must review the medical necessity of that procedure simultaneously with the admission review. If an elective procedure is not the purpose of the admission, but is scheduled during hospitalization, the committee must review the medical necessity of the procedure, before the procedure when feasible, using a process similar to that for admission review.

d. *Modification of Review.* Where the hospital has an adequate data base to perform focused review, it may submit a focused review plan to the respective fiscal agent for approval. The plan may provide for automatic approval of admission or entire hospital stay where the committee can demonstrate that a type of case is consistently medically necessary and appropriate.

e. *Assigned Length of Stay.* Whenever an admission or continued stay has been approved, the committee must assign a length of stay. The length of stay is based upon norms, selected by the committee, for patients in similar age groups with similar diagnoses, or based on the committee's estimate of the patient's need.

f. *Adverse Decision.* If the committee does not approve an admission or continued stay, it must issue a notice of adverse decision, informing the patient, the attending practitioner, and the hospital of the reason for the decision and the date after which the stay will not be approved as medically necessary or appropriate.

Major Issues

A. Scope

A number of issues arise concerning the scope of UR requirement and the circumstances in which they should apply fully, or be modified or waived.

1. *Should continued stay review be required for UR under Medicaid?*

These proposed regulations retain the requirement for continued stay review as part of UR under Medicaid. Prior to the enactment of Pub. L. 94-182, continued stay review was explicitly required under the Utilization Control penalty provision, section 1903[g][1](C). The Section was amended by Pub. L. 94-182, ostensibly only to allow for less than 100 percent review. The Section as amended does not expressly require continued stay review. However, section 1903(i)(4) still requires, unless waived, that Federal Medicaid payments be made only for services furnished in hospitals that have in effect UR plans which meet the requirements of section 1861(k). Continued stay review is explicitly required for Medicare under section 1861(k)(3), and we have, therefore, concluded that it must be retained for Medicaid.

2. *How closely should the requirements of the UR program parallel the requirements of the PSRO program?*

The purposes of the UR program and the PSRO program are similar: to assure the medical necessity and appropriateness of medical services provided under the Medicare and Medicaid programs. Because of the similarity of purpose, and because of the need for a smooth transition from UR to PSRO review when a PSRO assumes review responsibility, we propose that the general policies of UR parallel the policies of PSRO review, and that the specific requirements be as consistent as is permissible under existing statutory provisions. (Final regulations for PSRO hospital review were published in the Federal Register on June 4, 1979 (44 FR 32074).)

An illustration of this policy is our proposed requirement that UR committees, like PSROs, make determinations with respect to appropriateness, as well as medical necessity. We think that the requirement in 1861(k)(1) that a UR plan provide for review of admissions and continued stays "(B) for the purpose of promoting the most efficient use of available health facilities and services" provides sufficient authority for appropriateness determinations, and we believe that such determinations are essential to ensure proper utilization of institutional services. We are also proposing to adopt the proposed PSRO requirement that health care practitioners other than physicians with independent admitting privileges make review decisions concerning the care delivered by their peers. (See discussion under issue 12.)

3. *How soon must UR be reinstituted after a PSRO has had its funding*

withdrawn and loses review responsbility?

When a PSRO loses it funding and its review responsibility, UR must be reinstituted. This transition should cause little problem in hospitals with delegated review responsibility and ought to be accomplished quickly. If the PSRO has not delegated review, the transition may be more time-consuming. This may be particularly true under Medicaid, where UR imposes significant monitoring responsibilities on the single State agency. These responsibilities may require additional financial appropriations by State legislatures. We have, therefore, proposed that a maximum of three months be imposed as a deadline for UR to be implemented. We believe that this period without formal review procedures is short enough so that significant problems with over-utilization should not occur. Three months should be enough time for participating hospitals and the Medicaid State agency to reinstitute the UR program.

4. *What should be the UR requirements for mental hospitals?*

The present Medicaid regulation impose substantially identical UR requirements for hospitals and mental hospitals. (42 CFR 456.100 through 456.145; 456.200 through 456.245.) The differences are that, for mental hospitals: (1) admission review is the responsibility of the State agency; (2) there is not pre-admission review authority; and (3) the initial continued stay review date may be no later than 30 days after admission, and 90 days for each subsequent stay. (The hospital regulations do not specify time limits.) Also, the UR committee in the mental hospital must include at least one member knowledgeable in the treatment of mental diseases, who must review each case before an adverse decision is made. We are proposing to retain these last two differences, since they are based on the special nature of mental health services. We are also proposing to apply them to Medicare psychiatric hospitals. (Present Medicare regulations at 42 CFR 405.1035(f)(6) impose an initial 30 day continued stay review date for psychiatric hospitals, but do not specify further continued stay time frames.) We are proposing to make admission review in mental hospitals a function of the UR committee and are proposing to allow for pre-admission review.

5. *What should be the UR requirements for inpatient psychiatric services for individuals under 21?*

Final regulations implementing the penalty requirement of section 1903(g), published in the Federal Register on October 1, 1979 (44 FR 56333), make inpatient psychiatric services furnished to recipients under 21 subject to UC requirements.

Existing Medicaid regulations at Part 456, Subpart G, already contain physician certification, plan of care, and evaluation requirements for these services. There are no UR regulatory requirements in effect for these services, however. We are, therefore, proposing that the UR requirements for psychiatric hospital services be applied to all inpatient psychiatric services paid for by Medicaid, whether those services are provided in a hospital or in another type of institution, or a program within a facility. We believe that non-hospital psychiatric services are sufficiently similar to those provided in hospitals that a uniform set of requirements is appropriate.

6. *Should the regulations allow a group of hospitals to have a single UR program?*

Section 1861(k) of the Act provides that UR may be the responsibility of a committee that is not based in the particular hospital, if the committee is established in a manner approved by the Secretary. A small institution, or one in an area with limited physician availability, may find the requirements for a full UR program costly and difficult to meet. We therefore, propose to allow a group of hospitals to have a single UR program, provided that the UR committee responsible for the program meets the requirements discussed below under issues 10 through 13.

7. *What UR requirements should hospitals accredited by JCAH meet?*

Participating hospitals accredited by the Joint Commission on Accreditation of Hospitals (JCAH) are deemed by section 1865(a) of the Act to meet automatically the Medicare conditions of participation, except for UR and institutional planning. The Secretary is authorized, however, to find that an accredited hospital meets the UR condition of participation as well, if the JCAH requires a UR plan or another requirement that serves substantially the same purpose as the UR requirements of section 1861(k).

In December 1978 the Board of Commissioners of the JCAH approved a new UR standard and supporting interpretation, which became effective for accreditation purposes on January 1, 1980. We have worked closely with the JCAH in the development of the new standard. The Department carefully analyzed the draft UR standard to assure consistency between the JCAH standard and the Department's UR policy. The recently approved standard and interpretation have addressed the Department's concerns, and, therefore, we are proposing to find that the standard and its interpretation, together with the JCAH Quality Assurance standard and interpretation approved by the Board of Commissioners in April 1979, serve substantially the same purpose as the Medicare hospital requirement. We are proposing that hospitals which are surveyed and accredited after Januray 1, 1980, by the JCAH will be deemed to be in compliance with the UR condition of participation, provided that the hospitals meet both the UR and Quality Assurance standards and their interpretations. The positive effect of this finding will be an end to separate federal and JCAH standards and duplication of UR survey efforts by the JCAH and State agency surveyors.

Under our proposal, JCAH-accredited hospitals would be deemed to meet the requirement imposed by section 1903(i)(4) that hospitals participating in Medicaid have UR plans in effect that meet Medicare requirements. We are also proposing to substitute the JCAH UR standard for Medicaid inpatient psychiatric services for individuals under 21 for the UR requirements in these proposed regulations. We believe that the JCAH requirements for concurrent review satisfy the requirements of section 1903(g) for review or screening, provided that each admission and continued stay is subject to at least a preliminary screen. However, JCAH-accredited hospitals will still need to meet the conflict of interest requirements for criteria-setters imposed by section 1903(g)(1)(C) as well as the conflict of interest requirements for reviewers. Copies of the JCAH standards and their interprtations may be requested. We encourage public comment on whether JCAH accredited hospitals should be deemed to meet the UR requirements contained in these proposed regulations.

8. *When should Medicaid UR requirements be submitted for Medicare requirements?*

Section 1903(i)(4) provides that FFP is not available in payments for services provided in a hospital unless the hospital has in effect a UR plan that meets the Medicare requirements of section 1861(k) or the Secretary waives those requirements because he determines that the State Medicaid agency has in operation UR procedures which are superior in their effectiveness to those required by section 1861(k). Section 1861(k), in turn, authorizes the Secretary to use the Medicaid requirements for Medicare if he determines that the Medicaid requirements are superior in their

effectiveness to those required by section 1861(k).

Our present Medicare regulations at § 405.1035(k) and (l) provide for waiver of Medicare UR requirements in two types of cases: (1) When a State agency has been granted a waiver in accordance with section 1903(i)(4), and 42 CFR 456.505 through 456.508; and (2) when a facility is included in a Medicaid UR demonstration project under section 1115 of the Act. In order for a State to receive FFP for services furnished in facilities participating in a section 115 UR project, UR requirements must be met, or waived because we have determined that the UR procedures required by the project are superior in their effectiveness to those required by section 1861(k). We propose to continue to provide for waivers of Medicare UR requirements in these two types of cases because we believe that it is desirable to allow, when possible, for flexibility and innovation in UR programs, and because we believe that it is essential to avoid, if possible, imposing different UR requirements for Medicare and Medicaid on a facility participating in both programs.

9. *Should remote facilities be granted a variance from any UR requirements?*

Our present regulations, at 42 CFR 405.1913 and 456.520 through 456.525, provide for remote facility variances from the time limits for completion of review requirements. The regulations provide that a facility may submit a request that documents in detail its need for a variance, a revised UR plan, and assurances that the facility will continue to make efforts to meet all UR requirements.

We added this variance provision to the UR regulation in July 1975, because we anticipated that remote facilities might have considerable difficulty in finding enough physicians to meet the UR time requirements, particularly the one-day admission review requirement (40 FR 30817, July 23, 1975).

No hospital has ever requested a variance under this provision. In addition, we believe that a variance is no longer necessary, since we are proposing to allow up to three days for admission review and to allow a group of hospitals to establish a single UR program. Therefore, we have not provided for remote facility variances in these proposed regulations.

B. UR Committee Requirements

10. *From where should the membership of the UR committee be drawn?*

Section 1861(k)(2) provides that UR be performed either by a staff committee of two or more physicians, with or without participation of other professional personnel, or by a similar committee outside the hospital, established either by the local medical society and some of the local hospitals and skilled nursing facilities, or by another method approved by the Secretary. The statute requires that the hospital have an outside UR committee when the hospital is so small that it is impracticable for it to have a properly functioning staff committee. The statute also authorizes the Department to specify by regulation additional reasons for which an outside committee may be used. We have not included any additional reasons in these proposed regulations. We are proposing to require in all other cases that a hospital's UR committee be made up of its own staff. We are proposing to allow members of the staff of several hospitals to form one committee and conduct a single UR program for all of those hospitals. At least one physician from each hospital must be on the combined UR committee.

We recognize that outside committee members might be more objective than the hospital's own staff. However, we believe that the hospital's medical staff will be more committed to achieving an effective UR program if the staff has primary responsibility for that program.

11. *Should conflict of interest restrictions apply to reviewers as well as to individuals who set criteria?*

Prior to the amendments to section 1903(g)(1)(C), made by Pub. L. 94-182, the statute expressly required that conflict of interest restrictions be placed on reviewers. The statute as amended requires expressly that conflict of interest restrictions be placed on individuals who set criteria. It appears to contemplate that the restrictions also be placed on reviewers by referring to reviews conducted by "such personnel"—that is, the personnel who set the criteria.

We propose to retain in these regulations conflict of interest restrictions on reviewers. We believe strongly that efficient administration of the UR program requires disinterested reviewers. In our view, review by physicians and other health care practitioners of the medical necessity and appropriateness of admissions and continued stays is the most important element in the entire UR program, and it is essential that these decisions be accurate and distinterested.

Section 1903(g)(1)(C) now prohibits those who are directly responsible for the care of the patient involved and who have a significant financial interest in a hospital from establishing criteria for screening and review. We propose to apply these restrictions to both criteria-setters and reviewers. We propose to define significant financial interest as a 5 percent direct or indirect ownership interest in a hospital, as those terms are used in the regulations implementing the disclosure of ownership of control requirements imposed by section 1124(a)(1) of the Act, which was added by section 3(a)(1) of Pub. L. 95-142, the "Medicare-Medicaid Anti-Fraud and Abuse Amendments." (Final regulations were published in the Federal Register on July 17, 1979 (44 FR 41636).)

12. *Should conflict of interest restrictions be applied to criteria-setters under Medicare?*

As discussed above, section 1903(g)(1)(C) now imposes conflict of interest restrictions on those who set criteria under Medicaid. We considered not imposing this requirement under Medicare, since we believe that it may be desirable for all professionals practicing in an institution to help establish criteria for use in that institution. However, we decided that it would not be feasible to impose different requirements for Medicare and Medicaid in this case, particularly since the substantive requirements are otherwise identical for the two programs.

13. *To what extent should membership on the committee and participation in the UR program by health care practitioners other than physicians be required?*

Section 1861(k)(2) provides that UR be performed by a committee of two or more physicians, with or without participation by other professional personnel. The November 1974 UR regulations, at 20 CFR 405.1035(e), required participation by other professional personnel on the UR committee. This requirement was challenged in the AMA suit on the grounds that it might result in non-physicians being involved in reviewing the care provided by physicians. We agree that only physicians should set criteria for, or review, the care provided by physicians. However, as in the PSRO program, we believe that peer review is essential to an effective UR program. We believe that the peers of both physicians and health care practitioners other than physicians are best able to make valid review decisions concerning the necessity and appropriateness of health services ordered.

We therefore are proposing that other health care practitioners who have independent admitting privileges review and make final UR decisions concerning the care delivered by their peers. We recognize that sections 1816(k)(4) and 1814(a)(7) both refer to adverse decisions made "by the physician

members of the committee". However, we believe that practitioners who have independent admitting privileges and who order the care provided to the patient should also be given this authority since they generally serve as physicians of record when admitting and ordering care. We would not impose this requirement when it is impractical due to the absence of additional peer practitioners in the hospital. To the degree possible, consultation with the peers of practitioners who do not have independent admitting privileges is required whenever the care provided by such practitioners is being reviewed. Finally, we are proposing that health care practitioners participate in establishing criteria for the review of the types of care that they provide, and in conducting MCE studies evaluating that care.

C. Process

14. *Should the regulations allow for focusing, and if so, how much control should there be by the Department?*

Focusing is a modification of the review process in which certain identified diagnoses, conditions, or procedures are either exempted from review, or subject to intensified review. In the PSRO program, focused review is believed to be more efficient and cost-effective than 100 percent review. We considered proposing to require hospital UR committees to focus review. A hospital UR committee, however, may not have the broad data base and data analysis capability required to make informed decisions about focusing. We were concerned that the administrative dollars which could be saved by requiring focusing might be outweighed by the dollars spent in reimbursing for unnecessary services, undetected because of poor focusing decisions. Therefore, we are proposing to allow hospitals to submit focused review plans to the respective fiscal agents for approval. If the fiscal agent finds that a hospital does have the capability and necessary data base to perform focused review, it may approve the focused review plan.

The question arises whether we have the authority under section 1903(g) to allow only preliminary screening before automatic approval of admission for certain conditions. Although the statute requires that each admission be reviewed or screened against certain criteria, the statute does not define those terms. The legislative history of the amended section 1903(g)(1)(C) indicates clearly that Congress intended by amending the statute to allow for focusing of review of problem UR areas. (121 Cong. Rec. 41312, December 17, 1975.) We believe that preliminary screening against a carefully developed series of criteria for automatic admission satisfies both this intent and the statutory requirements.

15. *How long after admission should review be completed?*

The November 1974 regulations (20 CFR 405.1035(f) and 45 CFR 205.19(a)(1)(viii)) required completion of admission review within 24 hours. We were enjoined from implementing this one-day requirement in the AMA suit on the grounds that such a short time period might well frustrate reasonable medical judgement regarding medical necessity, because of lack of time for adequate testing, and might result in decisions not to hospitalize patients who needed hospitalization.

We agree that, in at least some cases, 24 hours is too short a period in which to complete review. The proposed regulations published in March 1976 allowed up to three days to complete admission review. The same limit is contained in the PSRO hospital review regulations. (42 CFR 466.18(a)(vi).) We received no adverse comment to the three day requirement, and are proposing the same limit in these regulations. We believe that three days is sufficient for adequate testing, and that any longer period would have major adverse cost implications.

16. *Should the regulation require concurrence by 2 reviewers before an adverse decision may be issued, or is the decision of one reviewer sufficient?*

We propose to allow an adverse decision to be issued after one reviewer fails to establish medical necessity, if the attending physician or other health care practitioner does not object. If the attending physician questions the reviewer's decision, we propose to require the concurrence of a second reviewer. The requirement for concurrence by two UR reviewers would be stricter than the requirement under the PSRO program, in which the decision of the PSRO physician is sufficient. (*See* final regulations at 42 CFR Part 466, Subpart B, published in the Federal Register on June 4, 1979 (44 FR 32074).) The PSRO program, however, provides a second level of review through a reconsideration process. Because the UR program does not provide for reconsideration, we believe that a second reviewer's opinion is necessary before issuing a notice of adverse decision.

We also considered referring to the committee for decision those cases in which the two reviewers made different recommendations about medical necessity and appropriateness. We thought that the first reviewer might be influenced to find medical necessity if he knew that his adverse finding could be reversed by another reviewer. We decided, however, that any further committee review would be too cumbersome.

17. *Should the names of the reviewers be provided on a notice of adverse decision?*

When reviewers determine that medical necessity is not established, a notice of adverse decision is sent to the patient, attending physician, and hospital. Although the reviewer makes the final determination, the adverse decision is a decision of the entire UR committee. Therefore, we do not believe that it is necessary for the names of the reviewers to be contained in the notice. We believe that including the reviewers' names might put pressure on them and interfere with their ability to make frank assessments. We recognize that reviewers' names are needed for record-keeping purposes, however, and propose that the case records contain the names of the reviewers.

18. *Should the regulation provide for appeals from decisions of the UR committee?*

We are not proposing to provide in these regulations for appeals of decisions of the UR committee. Present Medicare and Medicaid regulations provide formal appeal mechanism when an adverse decision becomes binding for payment purposes. (See 42 CFR, Part 405, Subpart G, and Part 431, Subpart E.) We believe that these mechanisms, and the proposed requirement of a second reviewer in cases in which the attending physician challenges the review decision, adequately protect patients who have received adverse decisions.

19. *What confidentiality and disclosure requirements should apply to UR information?*

We recognize the confidentiality and disclosure of UR information is a matter of great concern to both consumers and health care professionals and providers. This concern often may result in conflicting interests, with consumers seeking maximum disclosure in order to make informed choices about health care services, while health professionals and providers seek to maintain the confidentiality of their practice and to avoid any violation of the confidentiality of the relationship with their patients. Further, we recognize that this complex issue and competing interests have generated State laws with varied provisions for disclosure of medical information. Consequently, we were concerned that prescribing detailed Federal regulatory standards for confidentiality and disclosure of UR information might result in unintended

State law liability for those participating in UR activities. We are therefore proposing that UR committees meet applicable State law confidentiality and disclosure requirements, except that the committees must meet all substansive PSRO requirements for disclosure to the Secretary. In addition, any disclosure by UR committees concerning alcohol or drug abuse patient records is subject to the confidentiality restrictions in 42 CFR Part 2. We particularly invite comment on whether we should specify further UR confidentiality and disclosure requirements.

20. *What is our authority for requiring MCEs?*

Comments on the prior proposed hospital UR regulations, published on March 30, 1976, questioned our authority to require MCEs. Section 1861(k) requires that a UR plan provide "(1) for the review, on a sample or other basis, of admissions to the institution, the duration of stays therein, *and the professional services (including drugs and biologicals furnished),* (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services; * * *." (Emphasis added.) Section 1903(i)(4) requires, unless waived, that a hospital have in effect a UR plan that meets the requirements of section 1861(k).

We believe that the requirement under section 1861(k) for review of professional services provides sufficient statutory authority to require MCE studies. MCEs are a primary tool for assessing overall patterns of professional services provided within a hospital, and for identifying specific problem areas, so that recommendations can be made for corrective action, including the development of specific education programs designed to improve practitioner knowledge, practitioner performance, and/or administrative efficiency. We believe that these studies are an essential complement to the concurrent review process, and are necessary to an effective UR program.

21. *How many MCE studies should be required per year?*

The PSRO hospital review regulations specify a range in numbers of MCE studies that must be performed annually, depending on the size of the hospital. (*See* final regulations at 42 CFR 466.18(a) published in the Federal Register on June 4, 1979 (44 FR 32074).) Present UR regulations at 42 CFR 405.1035(j), 456.145, and 456.425 require only one study each year. Although we felt that this requirement may be too low for larger hospitals, we have decided not to impose a higher one. We expect that most hospitals will continue to perform more than one MCE study per year because they have recognized that these studies are an effective management tool. We do not believe that individual hospitals should be required to perform the number of MCEs required for PSROs. A PSRO can include a number of hospitals in an areawide MCE study. Furthermore, the PSRO regulations provide for a waiver of the MCE requirement. A waiver system would not be practical for UR because there are more than 3,000 hospitals under UR. In addition, recent changes in the requirements for accreditation of hospitals by the Joint Commission on Accreditation of Hospitals, have eliminated a numbers requirement for hospitals performing MCEs. We welcome any comments on this proposed section.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended as follows:

§ 405.1035 [Vacated]

1. Section 405.1035 is vacated, and its content revised and redesignated under a new Part 482, Subpart F.

2. Section 405.1913 is revised to make it applicable only to skilled nursing facilities, as follows:

§ 405.1913 Variances for utilization review requirements for remote skilled nursing facilities (SNFs).

(a) As used in this section:

(1) An "available" individual is one who:

(i) Possesses the necessary professional qualifications:

(ii) Is not precluded from participating by reason of financial interest in any SNF or direct responsibility for the care of the patients being reviewed; or employment by the facility; and

(iii) Is not precluded from effective participation by the distance between the facility and his residence, office, or other place of work. An individual whose residence, office, or other place of work is more than approximately one hour's travel time from the facility shall be considered precluded from effective participation.

(2) "Adjacent facility" means a SNF located within a 50-mile radius of the facility which requests a variance.

(b) The Secretary may grant a requesting facility a variance from the time frames set forth in § 405.1137(d), upon a showing satisfactory to the Secretary that the requesting facility has been unable to meet one or more of the requirements of § 405.1137, by reason of insufficient medical and other professional personnel available to conduct the utilization review required by § 405.1137.

(c) The request for variance shall document the requesting facility's inability to meet the requirements for which a variance is requested and the facility's food faith efforts to comply with the requirements contained in § 405.1137.

(d) The request shall include an assurance by the requesting facility that it will continue its good faith efforts to meet the requirements contained in § 405.1137.

(e) The requesting SNF shall submit, concurrently with the request for a variance, a revised utilization review plan that specifies the methods and procedures the SNF will use, if a variance is granted, to ensure—

(1) That effective and timely control will be maintained over the utilization of services; and

(2) That reviews will be conducted so as to improve the quality of care provided to patients.

(f) The request for a variance shall include:

(1) The name and location of the SNF that requests the variance;

(2) The total number of patient admissions and average daily patient census at the facility within the previous six months;

(3) The total number of title XVIII and title XIX patient admissions and the average daily patient census of title XVIII and title XIX patients in the facility within the previous six months;

(4) As relevant to the request, the names of all physicians on the active staff of the facility and the names of all other professional personnel on the staff of the facility, or both;

(5) The name and location of each adjacent SNF;

(6) The distance and average travel time between the requesting SNF and each adjacent SNF;

(7) As relevant to the request, the location of practice of available physicians and the estimated number of other available professional personnel, or both (see paragraph (a)(1)(iii) of this section);

(8) Documentation of the SNF's attempt to obtain the services of available physicians or other professional personnel, or both; and

(9) A statement of whether a planning or conditional Professional Standards Review Organization (PSRO) exists in the area where the SNF is located.

(g) The Secretary will promptly notify the facility of the action taken on the request. Where a variance is in effect,

the validation of utilization review under § 405.1137 shall be made with reference to the revised utilization review plan submitted with the request for variance.

(h) The Secretary, in granting a variance, will specify the period, not to exceed one year, for which the variance has been granted. A request for a renewal shall be submitted not later than 30 days before the expiration of the variance and shall contain all information required by paragraphs (c), (d), and (f) of this section. Renewal of the variance will be contingent upon the facility's continuing to meet the provisions of this section.

PART 440—SERVICES: GENERAL PROVISIONS

B. Part 440 is amended as follows:

1. Section 440.10 is amended by revising paragraphs (b) and (c) and deleting paragraph (d) to read as follows:

§ 440.10 Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases.

"Inpatient hospital services" means services that are ordinarily furnished in a hospital for the care and treatment of an inpatient under the direction of a physician or dentist and that are furnished in an institution that—

(a) Is maintained primarily for the care and treatment of patients with disorders other than tuberculosis or mental diseases;

(b) Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting; and

(c) Meets the requirements for participation in Medicare.

2. Section 440.140 is amended by revising paragraph (a)(1) to read as follows:

§ 440.140 Inpatient hospital services, skilled nursing facility services, and intermediate care facility services for individuals age 55 or older in institutions for tuberculosis or mental diseases.

(a) *Inpatient hospital services.* (1) "Inpatient hospital services for individuals age 65 or older in institutions for tuberculosis or mental diseases" means services provided under the direction of a physician for the care and treatment of recipients in an institution for tuberculosis or mental diseases that meets the requirements under Medicare, § 405.1036 of this chapter.

PART 456—UTILIZATION CONTROL

C. Part 456 is amended as set forth below:

1. The table of contents is amended by deleting §§ 456.100, 456.105 through 456.145, 456.200, and 456.205 through 456.245, revising the titles of Subparts G and H, and adding a new § 456.487 to Subpart G. As amended, the table of contents reads as follows:

2. Section 456.101 is revised to read as follows:

§ 456.101 UR plan required for inpatient hospital services.

A State plan must provide that the requirements of Part 482, Subpart F of this chapter, are met with respect to each hospital furnishing inpatient services under the plan.

§ 456.100 [Vacated and reserved]

§§ 456.105–456.145 [Vacated and reserved]

§ 456.200 [Vacated and reserved]

§§ 456.205–456.245 [Vacated and reserved]

3. Sections 456.100; 456.105 through 456.145; 456.200; and 456.205 through 456.245 are vacated and reserved and their content is revised and redesignated under a new Part 482, Subpart F.

4. Section 456.201 is revised to read as follows:

§ 456.201 UR plan required for inpatient mental hospital services.

A State plan must provide that the requirements of Part 482, Subpart F of this chapter, including the special requirements for psychiatric hospitals, are met with respect to each mental hospital furnishing inpatient services under the plan.

5. Subpart G is amended by revising the title and §§ 456.480 and 456.481 and adding a new § 456.487 to read as follows:

Subpart G—Inpatient Psychiatric Services for Individuals Under Age 21

§ 456.480 Scope.

This subpart concerns admission, plan of care, and utilization review requirements that apply to inpatient psychiatric services for individuals under age 21.

§ 456.481 Admission certification and plan of care.

If a facility provides inpatients psychiatric services to a recipient under age 21—

(a) The admission certification by the review team required in § 441.152 of this chapter satisfies the requirements for

physician certification of need for care in §§ 456.60, 456.160, 456.260, and 456.360;

(b) The development and review of the plan of care required in § 441.154 of this chapter satisfies the requirement for physician recertification of need for care in the sections cited in paragraph (a) of this section and the requirement for establishment and periodic review of the plan of care in §§ 456.80, 456.180, 456.280, and 456.380; and

(c) The plan of care must be established by the team described in § 441.156 of this chapter

* * * * *

§ 456.487 Utilization review (UR) requirements.

A State plan must provide that the requirements of Part 482, Subpart F of this chapter, including the special requirements for psychiatric hospitals, are met with respect to each facility or program furnishing under the plan inpatient psychiatric services to individuals under 21.

6. Subpart H is amended by revising the title and §§ 456.500 through 456.506, 456.508, 456.520, 456.522, to read as follows:

Subpart H—Utilization Review (UR) Plans: FFP, Waivers, and Variances.

§ 456.500 Purpose.

This subpart—

(a) Prescribes conditions for the availability of FFP relating to UR plans;

(b) Prescribes conditions for granting a waiver of UR plan requirements; and

(c) Prescribes conditions for granting a variance in UR plan requirements for remote SNFs.

§ 456.501 UR plans as a condition for FFP.

(a) Except when waived under §§ 456.505 through 456.508; or § 482.130 of this chapter, FFP is not available in expenditures for medicaid services furnished by a hospital, mental hospital, or SNF unless the facility has in effect a UR plan that meets the utilization review requirements for medicare under sec. 1861(k) of the act.

(b) A SNF that participates in medicare and medicaid must use the same UR standards and procedures and review committee for medicaid as it uses for medicare.

(c) A SNF that does not participate in medicare must meet the UR plan requirements in subpart E of this part, which are equivalent to the medicare UR plan requirements in § 405.1137 of this chapter.

UR Plan: Waiver of Requirements

§ 456.505 Applicability of waiver.

The Administrator may waive the UR plan requirements of Subpart E of this part, except for provisions relating to disqualification of UR committee members under § 456.306 of Subpart E if the Medicaid agency—

(a) Applies for a waiver; and

(b) Demonstrates to the Administrator's satisfaction that it has in operation specific UR procedures that are superior in their effectiveness to the UR plan requirements under Subpart E of this part.

§ 456.506 Waiver options for medicaid agency.

(a) The agency may apply for a waiver at any time it has the procedures referred to under § 456.505(b) in operation at least—

(1) On a demonstration basis; or

(2) In any part of the State.

(b) Any SNF that is participating under the plan and is not covered by a waiver must continue to meet all the UR plan requirements under Subpart E of this part.

* * * * *

§ 456.508 Withdrawal of waiver.

(a) The Administrator will withdraw a waiver if he determines that State procedures are no longer superior in their effectiveness to the procedures required for UR plans under Subpart E of this part.

(b) If a waiver is withdrawn by the Administrator, each SNF covered by the waiver must meet all the UR plan requirements under Subpart E of this part.

UR Plan: Remote SNF Variances From Time Requirements

§ 456.520 Definitions.

As used in §§ 456.521 through 456.525 of this subpart:

"Available physician or other professional personnel" means an individual who—

(a) Is professionally qualified;

(b) Is not precluded from participating in UR under § 456.307 of Subpart E of this part; and

(c) Is not precluded from effective participation in UR because he requires more than approximately 1 hour to travel between the remote SNF and his place of work.

"Remote SNF means a SNF located in an area that does not have enough available physicians or other professional personnel to perform UR as required under Subpart E of this part, and for which the State requests a variance.

"Variance" means permission granted by the Administrator to the Medicaid agency for a specific remote SNF to use time periods different from those specified for the start and completion of reviews of all cases under subpart E of this part.

§ 456.521 Conditions for granting variance requests.

(a) Except as described under paragraph (b) of this section, the administrator may grant a variance for a specific remote SNF if the agency submits concurrently—

(1) A request for the variance that documents to his satisfaction that the SNF is unable to meet the time requirements for which the variance is requested; and

(2) A revised UR plan for the SNF.

(b) The Administrator will not grant a variance if the remote SNF is operating under a UR plan waiver that the Secretary has granted or is considering under §§ 456.505 through 456.508.

§ 456.522 Content of request for variance.

The agency's request for a variance must include—

(a) The name, location, and type of the remote SNF.

(b) The number of total patient admissions and the average daily patient census at the SNF in the 6 months preceding the request;

(c) The number of medicare and medicaid patient admissions and the average daily medicare and medicaid patient census at the SNF in the 6 months preceding the request:

(d) The name and location of each hospital, mental hospital, SNF, and ICF located within a 50-mile radius of the SNF;

(e) The distance and average travel time between the remote SNF and each SNF listed in paragraph (d) of this section;

(f) Documentation by the SNF of its attempts to obtain the services of available physicians or other professional personnel, or both;

(g) The names of all physicians on the active staff, and the names of all other professional personnel on the staff whose availability is relevant to the request;

(h) The practice locations of available physicians and the estimated number of available professional personnel whose availability is relevant to the request;

(i) Documentation by the SNF of its inability to perform UR within the time requirements for which the variance is requested and its good faith efforts to comply with the UR plan requirements of Subpart E of this part;

(j) An assurance by the SNF that it will continue its good faith efforts to meet the UR plan requirements of Subpart E of this part; and

(k) A statement of whether a planning or conditional PSRO exists in the area where the SNF is located.

§ 456.523 Revised UR plan.

(a) The revised UR plan for the remote SNF must specify the methods and procedures that the SNF will use if a variance is granted to insure that it—

(1) Maintains effective and timely control over the utilization of services; and

(2) Conducts reviews in a way that improves the quality of care provided to patients.

(b) The revised UR plan for the remote SNF is the basis for validation of UR under sec. 1903(g)(2) of the Act for the period when a variance is in effect.

§ 456.524 Notification of Administrator's action and duration of variance.

(a) The Administrator—

(1) Will notify the agency of the action he takes on its request for a variance; and

(2) Will specify the period of time, not to exceed 1 year, for which the variance may be granted.

(b) When it receives the Administrator's notification, the agency must promptly notify the remote SNF of his action.

§ 456.525 Request for renewal of variance.

(a) The agency must submit a request for renewal of a variance to the Administrator at least 30 days before the variance expires.

(b) The renewal request must contain the information required under § 456.522.

(c) The renewal request must show, to the Administrator's satisfaction, that the remote SNF continues to meet the requirements of §§ 456.521 through 456.523.

7. Section 456.614 is revised to read as follows:

§ 456.614 Inspection review committee.

A utilization review committee under Subparts E and F of this part and Subpart F of Part 482 of this chapter may conduct the periodic inspections required by this subpart if—

(a) The committee is not based in the facility being reviewed; and

(b) The composition of the committee meets the requirements of this subpart.

D. A new Part 482, Subpart F is added to read as follows:

PART 482—CONDITIONS OF PARTICIPATION—HOSPITALS

Subparts A-E [Reserved]

Subpart F—Utilization Review (UR) Program

Sec.

Authority: Sections 1102, 1861(k), 1871, 1902(a)(30), 1903(g)(1)(c) and 1903(i)(4) of the Social Security Act; 42 U.S.C. 1302, 1395x(k), 1395(hh), 1396(a)(30), 1396b(g)(1)(c) and 1396b(i)(4).

§ 482.100 Statutory provisions and applicability.

(a) *Statutory provisions:* Section 1861 (e), (f), and (g) of the Social Security Act require, as a condition of participation under Medicare, that a hospital have in effect a utilization review (UR) plan that meets the requirements specified in section 1861(k). Section 1861(k) also provides that the Secretary may determine that Medicaid UR procedures are superior in their effectiveness, and he may require that they be used for Medicare. Section 1902(a)(30) requires that each State Medicaid plan provide for UR methods and procedures. Section 1903(i)(4) provides that FFP is not available in Medicaid expenditures for services furnished by a hospital unless that hospital has a UR plan in effect that meets the requirements of section 1861(k). A hospital participating in both Medicare and Medicaid must use the same UR plan, procedures, and committee for both programs. Section 1903(i)(4) also provides that the Secretary may determine that State Medicaid UR procedures are superior in their effectiveness, and may be substituted for Medicare requirements. Section 1903(g)(1)(C) requires a reduction in a State's Medicaid grant for any quarter for which the State does not make a satisfactory showing that it met UR requirements.

(b) *Applicability.* (1) The provisions of this subpart apply to all hospital Medicare or Medicaid providers for which a PSRO has not assumed binding review.

(2) When PSRO binding review authority has been terminated, a hospital has up to three months to establish a UR program that meets the requirements of this subpart.

§ 482.101 Scope.

Sections 482.103 through 482.122 establish a UR plan as one of the conditions of participation of hospitals in the Medicare and Medicaid programs, and specify standards for meeting that condition. Section 482.130 sets forth the conditions under which a State UR system, established for the Medicaid program, may be substituted for the UR program specified in §§ 482.103 through 482.122. Section 482.131 provides for the substitution for the required Medicare procedures of the procedures of a Section 1115 Medicaid UR demonstration project.

§ 482.102 Definitions.

As used in this subpart, unless the context indicates otherwise:

"*Act*" means the Social Security Act (42 U.S.C. Chapter 7).

"*Administrator*" means the Administrator of the Health Care Financing Administration (HCFA).

"*Admission review*" means a review and decision by the committee of the medical necessity and appropriateness of a patient's admission to a hospital level of care.

"*Adverse decision*" means a negative decision by the committee, regarding the medical necessity or appropriateness of health care services provided or proposed to be provided to a patient.

"*Assigned length of stay*" means the number of days between admission and the date the committee would ordinarily complete its decision regarding the medical necessity of continued hospital stay.

"*Automatic approval*" means committee approval of the provision of health care services to a patient without performance of admission review, or without performance of both admission review and continued stay review.

"Committee" or *"UR Committee"* means the committee responsible for implementation of the UR program.

"Concurrent review" means a review and decision focused on the necessity and appropriateness of inpatient hospital services performed while the patient is in the hospital. It includes admission review, continued stay review and, when appropriate, procedure review.

"Continued stay review" means committee review and decision, after admission review and during a patient's hospitalization, of the medical necessity and appropriateness of continuing the patient's stay at a hospital level of care.

"Criteria" means predetermined elements of health care, developed by health professionals relying on professional expertise, prior experience, and the professional literature, with which aspects of the quality, medical necessity, and appropriateness of a health care service may be compared.

"Directly responsible for the care of the patient" means the individual is:

(1) Issuing treatment orders for the patient; or

(2) Participating in the formulation or execution of the patient's treatment plan.

"Elective," when applied to admission or to a health care service, means an admission or a service that can be delayed without substantial risk to the health of the individual.

"HCFA" stands for the Health Care Financing Administration.

"Health care practitioners other than physicians" means those health professionals who do not hold a doctor of medicine or doctor of osteopathy degree, who are licensed under State or Federal law to practice their professions, and who are in active practice.

"Health care service" means a service or item, including hospitalization, for which payment may be made (in whole or in part) under the Act.

"Hospital" means a health care institution or distinct part of a health care institution, as defined in section 1861(e)–(g) of the Act, other than a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"Major clinical area" means medicine, surgery, pediatrics, obstetrics and gynecology, or psychiatry.

"Major diagnostic or therapeutic procedure" means a procedure which involves a surgical or anesthetic risk or requires highly trained personnel or special facilities or equipment.

"Medical care evaluation (MCE) study" means an assessment, performed retrospectively, of the quality or nature of the utilization of health care services. If indicated, corrective action is taken, and a subsequent assessment is made of the impact of the corrective action.

"Norms" means numerical or statistical measures of average observed performance in the delivery of health care services.

"Peer review" means review by health care practitioners of services ordered or furnished by other practitioners in the same professional field.

"Physician" means a doctor of medicine or osteopathy or another individual who is authorized under State or Federal law to practice medicine and surgery, or osteopathy.

"Preadmission review" means a committee review and decision prior to a patient's admission to a hospital, of the medical necessity and appropriateness of an elective health care service.

"Procedure review" means a review and a decision by the committee of the medical necessity of, and appropriateness of, hospital level of care for surgery or other major diagnostic or therapeutic procedure.

"Screening" means the comparison of a case against written criteria to determine whether more extensive peer review is necessary to establish the medical necessity and appropriateness of a health care service.

"Significant financial interest" means a direct or indirect ownership interest of 5 percent or more in any hospital, if the interest is any one of the types specified under the definition of "person with an ownership or control interest", as defined in 42 CFR 420.201 and 455.101.[1]

"Standards" means professionally developed expressions of the range of acceptable variation from a norm or criterion.

"UR program" means a program of concurrent and retrospective review to establish the medical necessity and appropriateness of health care services.

"Working day" means any one of at least five days of each week (excluding, at the option of each committee, legal holidays) on which the necessary personnel are available to perform review in the hospital.

§ 482.103 Condition.

(a) Each hospital that is not subject to binding PSRO review must have a UR plan in effect that specifies a UR program that meets the requirements of this subpart. The purpose of the program is to screen or review the medical necessity and appropriateness of professional health care services provided to Medicare beneficiaries or Medicaid recipients. The hospital's medical staff must be responsible for implementing the UR program.

(b) A group of hospitals may establish a single UR program if that program meets all the requirements of this subpart.

(c) If a hospital participates in both Medicare and Medicaid, it must use the same UR plan, procedures, and committee for both programs.

§ 482.104 Standard: UR committee.

(a) *Composition.* (1) The committee must include two or more physicians as well as health care practitioners other than physicians if required by § 482.118.

(2) For psychiatric hospitals, the committee must include at least one physician knowledgeable in the diagnosis and treatment of mental diseases.

(3) If a group of hospitals has established a single UR program, at least one physician from each hospital must be on the committee.

(b) *Organization.* (1) The committee must be organized as a committee of the hospital's medical staff.

(2) If the hospital staff is too small to have a properly functioning UR committee, the committee must be organized outside the hospital's medical staff, and be established by the local medical or osteopathic society and at least some of the hospitals and skilled nursing facilitiies in the locality.

(3) If neither of the forms of organization specified in paragraphs (b)(1) or (2) of this section is possible, the hospital must establish a committee capable of performing utilization review in a manner approved by the Administrator.

(c) *Delegation.* The committee may delegate screening functions. Only members of the committee may perform review.

(d) *Use of other committees.* The committee may use other committees within the hospital to assist it in carrying out any of its UR functions, except for concurrent review.

§ 482.106 Standard: UR plan.

The hospital must have a current written UR plan specifying:

(a) The composition and organization of the committee;

(b) The frequency of meetings of the committee;

(c) Procedures for screening and performing review of admission, continued stays, and elective procedures;

[1] Regulations defining ownership interest were published in the Federal Register on July 17, 1979 (44 FR 41636).

(d) The role of health care practitioners other than physicians;
(e) Reviewer restrictions;
(f) Procedures for conducting medical care evaluation (MCE) studies; and
(g) Procedures used in the development of criteria.

§ 482.108 Standard: records and reports.

(a) *Data required.* Consistent with the confidentiality requirements of paragraph (b) of this section, the committee must maintain the following dated records:
(1) For each case:
(i) Identification of the eligible individual and attending physician;
(ii) The date of admission, and date of application for Medicare or Medicaid benefits, if made after admission;
(iii) The date and results of each concurrent review;
(iv) Identification of the reviewing physicians or peer health care practitioners;
(2) Each completed MCE study;
(3) The current criteria and norma;
(4) Results of the assessment of criteria; and
(5) Copy of each notice of adverse decision.
(b) *Confidentiality and disclosure.* (1) The UR committee must keep confidential and disclose its records in accordance with applicable State law.
(2) The UR committee must meet the substantive requirements specified for PSROs for disclosure to the Secretary.[1]
(c) *Distribution of reports.* The committee must make reports of its UR activities on a regular basis to:
(1) Appropriate members of the hospital medical staff;
(2) The chief administrative official of the hospital; and
(3) The Chairman of the Board of Trustees (or other governing body) of the hospital.
(d) Any hospital which had been under binding PSRO review authority prior to PSRO review termination, must continue to collect and maintain the Uniform Hospital Discharge Data Set on each Federal discharge, and send it to the appropriate Regional Health Standards and Quality Bureau Director each quarter.

§ 482.109 Standard: responsibilities of the hospital administration.

(a) The administrative staff must inform the committee of the application for benefits under Medicare or Medicaid of any patient who applies while in the hospital.

[1] Proposed regulations on Confidentiality and Disclosure of PSRO Information were published in the Federal Register on January 15, 1979, (44 FR 3058).

(b) The administrative staff must give support and assistance to the committee in assembling information, facilitating concurrent review, conducting studies, exploring ways to improve procedures, maintaining committee records, and promoting the most efficient use of available health services and facilities.
(c) The hospital administrator must designate an individual or hospital department to be responsibile for each of the activities specified in paragraph (b) of this section.

§ 482.110 Standard: general requirements for concurrent review.

(a) *Candidates for review.* The committee must perform admission and continued stay review and, when appropriate, procedure review on each Medicare or Medicaid patient identified by the hospital.
(b) *Basis for decision of appropriateness.* The committee must determine whether the level of care is appropriate in accordance with the level-of-care provisions in section 1861(c)–(g) of the Act, 42 CFR 405.116, 440.10, and 440.140, and pertinent guidelines issued by HCFA.

§ 482.111 Standard: admission review.

(a) *Nature of review.* (1) Admission review must consist of screening and, if the conditions specified in the screen are not met, peer review.
(2) Screening review must be conducted by the committee using criteria and standards developed in accordance with §§ 482.120 and 482.122 to select those cases requiring peer review.
(3) If the committee establishes from the screen that the admission is medically necessary and at the appropriate level of care, it must approve the admission.
(4) If the committee cannot establish that the hospital admission is medically necessary or appropriate, it must refer the case for peer review.
(5) In performing peer review, if the peer reviewer establishes that the admission is medically necessary and appropriate, the committee must approve the admission.
(6) If the peer reviewer does not establish that the admission is medically necessary and appropriate, he must request a consultation with the attending physician or other attending health care practitioner. The peer reviewer must request the attending physician to explain the nature of the patient's need for hospital services, including all factors which preclude treatment of the patient as an outpatient or in an institution providing a lesser level of care.
(7) If, as a result of the consultation, the peer reviewer establishes that the admission is medically necessary and appropriate, the committee must approve the admission.
(8) If medical necessity and appropriateness is still not established after the consultation, and the attending physician does not contest the finding, the committee must make an adverse decision and give notice in accordance with § 482.116. If the attending physician contests the finding, a second peer member of the committee must review the case.
(9) If the second peer reviewer establishes that the admission is medically necessary and appropriate, the committee must approve the admission.
(10) If the second peer reviewer establishes that the admission is not medically necessary or appropriate, that adverse decision is the final committee decision. The committee must give a notice of adverse decision regarding admission in accordance with § 482.116.
(b) *Timing of review.* (1) Admission review must be completed, and approval or adverse notice given, as soon as feasible, but no later than three working days after the admission.
(2) In the case of a patient whose eligibility for benefits under this chapter is identified at some time after admission, the committee must review the medical necessity and appropriateness of level of care of admission and continued stay as soon as feasible but no later than three working days after identification, if the patient is in the hospital at the time.
(c) *Initial assigned length of stay.* If an admission is approved under paragraphs (a) (3), (5), (7), or (9) of this section, the committee must assign an initial length of stay based on:
(1) The 50th percentile of lengths of stay for patients in similar age groups with similar diagnoses, or
(2) A reasonable estimate, considering the nature of the patient's medical problem and the projected date when the diagnosis will be more fully clarified, if the diagnosis is unclear at the time of admission, or length-of-stay projections and norms are unavailable.

§ 482.112 Standard: continued stay review.

(a) *Nature of review.* (1) Continued stay review must consist of screening and, if the conditions specified in the screen are not met, peer review.
(2) Screening review must be conducted by the committee using criteria and standards developed in accordance with §§ 482.120 and 482.122

to select those cases requiring peer review.

(3) If the committee establishes that continued stay is medically necessary and at the appropriate level of care, it must assign a continued length of stay by the end of the previously assigned length-of-stay period.

(4) If the committee cannot establish that continued stay is medically necessary or at the appropriate level of care, it must refer the care for peer review.

(5) If the peer reviewer establishes that the continued stay is medically necessary and appropriate, the committee must assign a length of stay as specified in paragraph (c) of this section.

(6) If the peer reviewer does not establish that the continued stay is medically necessary and appropriate, he must request a consultation with the attending physician or other attending health care practioner. The peer reviewer must request the attending physician to explain the nature of the patient's need for hospital services, including all factors which preclude treatment of the patent as an outpatient or in an institution providing a lesser level of care.

(7) If, as a result of the consultation, the peer reviewer establishes that the continued stay is medically necessary and appropriate, the committee must assign a length of stay as specified in paragraph (c) of this section.

(8) If medical necessity and appropriateness is still not established after the consultation, and the attending physician does not contest the finding, the committee must make an adverse decision and give notice in accordance with § 482.116. If the attending physician contests the finding, a second peer member of the committee must review the case.

(9) If the second peer reviewer establishes that the continued stay is medically necessary and appropriate, the committee must assign a length of stay as specified in paragraph (c) of this section.

(10) If the second peer reviewer establishes that the continued stay is not medically necessary or appropriate, that decision is the final committee decision. The committee must provide a notice of adverse decision as specified in § 482.116.

(b) *Timing of review.* Continued stay review must be completed by the last day of the initial assigned length of stay.

(c) *Duration of continued length of stay.* (1) A continued length of stay must be based on the expected time when the patient will no longer require a hospital level of care.

(2) For psychiatric hospitals, each continued length of stay may be no longer than 30 days until 90th day after admission, and no longer than 90 days hereafter.

(d) *Additional continued stay review.* Before the expiration of a continued length of stay, each case must be reviewed again in the manner prescribed under paragraphs (a), (b), and (c) of this section. These reviews shall be repeated as long as the continued stay is further assigned by the committee.

§ 482.113 Standard: elective procedure review.

(a) *On admission.* If a purpose of admission is to perform elective surgery or other major elective diagnostic or therapeutic procedure, the committee must determine the medical necessity of the elective procedure and the appropriateness of hospital level of care simultaneously with admission review. This review must be completed prior to the procedure, whenever feasible, but no later than three working days after the admission.

(b) *During hospitalization.* If an elective surgical or major elective diagnostic or therapeutic procedure, but a stated purpose of admission, is scheduled during hospitalization, the committee must complete review of the medical necessity of the surgery or other major procedure prior to the procedure, whenever feasible.

(c) *Required preprocedure review.* If the committee has a reasonable belief, based on documentation it has developed or on other information, that there is medically unnecessary or inappropriate utilization of an elective procedure, it must establish the medical necessity and appropriateness of the procedure prior to the procedure.

§ 482.114 Standard: preadmission review.

(a) *General authority.* The committee may review, prior to admission, the medical necessity and appropriateness of any health care service to be provided to a patient on an elective basis. This review must be conducted in accordance with the applicable review activities prescribed in §§ 482.110 and 482.111.

(b) *Publicizing requirement.* If the committee chooses to perform preadmission review, it must:

(1) Develop a list of the types of health care services for which preadmission review will be performed; and

(2) Provide copies to the chief of each hospital medical staff for distribution within the hospital.

§ 482.116 Standard: notice of adverse decision.

(a) *Parties to be notified.* The committee must give written notice of an adverse decision to:

(1) The patient or, if the patient is expected to be unable to comprehend the notice, the patient's next of kin, guardian, or sponsor;

(2) The attending physician, or other attending health care practitioner; and

(3) The hospital.

(b) *Content of the notice.* The notice must include:

(1) The reason for the decision;

(2) The date after which the stay in the hospital will not be approved by the committee as medically necessary or appropriate; and

(3) The signature of an authorized member or representative of the committee.

(c) *Timing of the notice.* The notice must be delivered to the patient in the hospital when feasible, or mailed within the following time limits:

(1) For admission, within three working days after admission;

(2) For continued stay, by the last day of the previously approved length-of-stay period, or the day after the decision, whichever is earlier;

(3) For preprocedure review, before the procedure is performed;

(4) For preadmission review, before admission; and

(5) If identification as a patient eligible for benefits under this chapter has been delayed, within three working days of identification if the patient is still in the hospital.

(d) *Record of adverse decisions.* (1) The committee must document and preserve a record of all adverse decisions.

(2) The record must include:

(i) The detailed basis of the decision of the practitioner or committee that conducted the review; and

(ii) A copy of the notice of adverse decision sent to all parties.

§ 482.117 Standard: medical care evaluation (MCE) studies.

(a) *Number of studies required.* The committee must complete at least one MCE study each calendar year.

(b) *Required coverage.* The committee must consider assessment of the patterns of care of patients in all major clinical areas in the hospital as potential study topics. In addition, MCE studies must, when relevant, include assessment of care provided by other health care practitioners as well as care provided by physicians.

(c) *Nature and content of studies.* In conducting an MCE study, the committee must:

(1) Focus upon a known or suspected problem area in organization, delivery, or outcome of hospital care;

(2) Carry out the study in accordance with specifically developed and explicitly stated objectives;

(3) Use criteria and standards specified in paragraph (d) of this section;

(4) When appropriate, use a sample of patients (and their records) selected from all the patients in the hospital;

(5) Provide for peer analysis of any substantial divergence from criteria to determine whether it is justified or represents problems that require corrective action;

(6) Make recommendations, consistent with the confidentiality requirements of § 482.108, for corrective action to individuals and organizations responsible for effecting change in the organization, administration and delivery of health care;

(7) Document when, where, and by whom any recommended corrective action was taken;

(8) Include a plan for follow-up evaluation, when indicated, to determine what changes have occurred as a result of action taken;

(9) Perform, when indicated, a follow-up evaluation:

(i) Within a reasonable time, but usually no later than one year after completion of the study; and

(ii) Limited to key indicators relevant to the particular study; and

(10) Provide for periodic reporting of a summary of the quality assurance activities to the governing body of the hospital.

(d) *Use of criteria and standards.* (1) The committee must adopt and use criteria and standards (in accordance with §§ 482.120 through 482.122), that relate to the specific objectives of the study.

(2) If the committee identifies a pattern of performance that does not conform to applicable criteria, it must subject the services involved in that pattern to further analysis.

(3) The identification of such a pattern does not necessarily constitute a finding by the committee that those services were not medically necessary, or not provided at the appropriate level of care.

(e) *Reports to hospitals.* (1) The committee must provide the written results of each MCE to:

(i) Appropriate members of the hospital medical staff;

(ii) The chief administrative official of the hospital; and

(iii) The Chairman of the Board of Trustees (or other governing body) of the hospital.

§ 482.118 Standard: Involvement of health care practitioners other than physicians.

(a) *Basic requirement.* If the committee reviews care ordered by health care practitioners other than physicians, either independently or with concurrence of a physician, it must involve the peers of those practitioners in the review process unless:

(1) Peer practitioners are unavailable to perform review; or

(2) Those peers are precluded from performing review because of participation in the treatment of the patient or of financial interest in the hospital. (See § 482.119(c).)

(b) *Types of peer involvement.* The committee must provide that:

(1) In decisions regarding medical necessity for their services, these practitioners are involved, for their particular speciality, in:

(i) Developing criteria and standards;

(ii) Selecting norms to be used;

(iii) Developing review mechanisms for care ordered by their peers; and

(iv) Reviewing that care;

(2) In the conduct of concurrent review:

(i) An adverse decision of services ordered by a practitioner who has independent admitting privileges must be made by a peer of that practitioner;

(ii) An adverse decision of services ordered by a practitioner who requires physician concurrence for hospital admission must be made after consultation with a peer of that practitioner; and

(3) In the conduct of MCE studies, participation by these practitioners in review of care provided by their peers must be similar to that of physicians.

§ 482.119 Standard: reviewer qualifications and participation.

(a) *Peer review by physician.* (1) Each person who makes a decision about services provided, or proposed to be provided, by a licensed doctor of medicine or osteopathy must be another licensed doctor of medicine or osteopathy.

(b) *Peer review by health care practitioners other than physicians.* A person who makes a decision about services provided, or proposed to be provided, by a health care practitioner other than a physician must be a peer health care practitioner except under the circumstances specified in § 482.118(a)(1) and § 482.119(c).

(c) *Review by physicians knowledgeable in the treatment of mental diseases.* In psychiatric hospitals, the committee may not issue a notice of adverse decision unless at least one peer reviewer is a physician knowledgeable in the treatment of mental diseases.

(d) *Persons excluded from review.* A person may not participate in the review of health care services:

(1) If he is or was directly responsible for the care of the patient whose case is under review; or

(2) If he has a significant financial interest in any hospital.

§ 482.120 Standard: establishment of norms, criteria, and standards.

(a) *Norms, criteria, and standards.* The committee must:

(1) Establish written criteria, and select norms which are required for preadmission and concurrent review; and

(2) Establish written criteria and standards to be used as principal points of reference in conducting MCE studies.

(b) *Restriction for personnel establishing criteria.* (1) A person may not participate in establishing criteria if he has a significant financial interest in any hospital.

(2) A person may not participate in establishing criteria if he is at any time directly responsible for the care of patients to whom the criteria are applied.

§ 482.121 Standard: use of norms, criteria, and standards.

In assessing the need for, and appropriateness of, inpatient hospital care, the committee must, as principal points of reference:

(a) Apply criteria specifying clinical indications of:

(1) The necessity for hospital admission and continued stay;

(2) The necessity for surgery and other major diagnostic and therapeutic procedures;

(3) The types of services which are most effectively and appropriately provided at a hospital level of care;

(b) Apply norms in assigning initial and extended certified length-of-stay periods;

§ 482.122 Standard: Revisions.

The committee must periodically reassess, revise and update the norms, criteria, and standards currently applied in preadmission and concurrent review.

§ 482.130 Substituting a superior State medicaid UR system.

(a) The HCFA Administrator may allow a hospital to substitute for the requirements specified in this subpart, any UR procedures included in a State superior system waiver.

(b) The Administrator may give a superior system waiver for any of the requirements of this subpart, except those relating to restrictions on criteria

setters and physician reviewers under §§ 482.119 and 482.120, if the Medicaid agency:

(1) applies for a waiver; and

(2) demonstrates to the Administrator's satisfaction that UR procedures for which it requires a waiver are superior in their effectiveness to the UR requirements of this subpart.

(c) The agency may apply for a waiver at any time it has the procedures referred to under paragraph

(b)(2) of this section in operation at least:

(1) on a demonstration basis; or

(2) in any part of the State.

(d) The Administrator will review and evaluate each waiver between 1 and 2 years after he has granted it and between 1 and 2 years periodically thereafter.

(e) The Administrator will withdraw a waiver if he determines that State procedures are no longer superior in their effectiveness to the procedures required for UR programs under this subpart. If a waiver is withdrawn by the Administrator, the hospital previously covered by the waiver must meet all the UR requirements specified in this subpart.

§ 482.131 Substituting UR procedures applicable under a medicaid section 1115 UR demonstration project for medicare requirements.

(a) *General rule.* (1) The Administrator may give hospital Medicare providers participating in the Medicaid UR demonstration project, under Section 1115 of the Act, the option of substituting the procedures required under the demonstration project for the UR procedures otherwise required by this subpart.

(2) If the Administrator decides to offer such an option, he will notify the hospital. A hospital must notify the Administrator within 30 days that it elects to perform UR under the Section 1115 demonstration project procedures rather than the procedures prescribed in this part.

(3) If the project is in effect for more than one year, the Administrator may give another 30 day election period to facilities that did not initially elect the Section 1115 demonstration procedures.

(b) *Facility elects option.* (1) If the facility notifies the Administrator within 30 days that it has elected the Section 1115 demonstration project procedures, the election is effective for patients admitted to the facility on the fifteenth day after the close of the 30-day period, or on the starting date of the project, whichever is later.

(2) The option will remain in effect until the date the project ceases, unless the facility chooses to withdraw the election pursuant to paragraph (b)(3) of this section.

(3) A facility originally electing to substitute the Section 1115 procedures for the requirements of this subpart may withdraw such election by notifying the Secretary in writing during the 30-day period preceding the anniversary of the effective date of the facility's election (see paragraph (b)(1) of this section). The withdrawal is effective on the fifteenth day after the close of this 30-day period.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance)

Dated: November 14, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: February 21, 1980.

Nathan J. Stark,

Acting Secretary.

[FR Doc. 80-6126 Filed 2-29-80; 8:45 am]

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Part V

Department of the Interior

Bureau of Land Management

Surface Mining of Public Land Under U.S. Mining Laws; Proposed Procedure To Minimize Adverse Environmental Impacts

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

Surface Management of Public Land Under U.S. Mining Laws; Proposed Procedure To Minimize Adverse Environmental Impacts

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: Re-issuance of a proposed rulemaking that provides the rules and procedures to prevent impairment of wilderness suitability and undue or unnecessary degradation of the surface resources of public lands from operations authorized by the United States Mining Laws (30 U.S.C. 22–54).

DATE: Comments by May 2, 1980.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, NW., Washigton, D.C. 20240.

Comments will be available for public review in room 5555 at the above address during regular business hours (7:45 a.m. to 4:15 p.m.).

FOR FURTHER INFORMATION CONTACT: Bob Anderson, 202–343–7722, or Vincent J. Hecker, 202–343–8537, or Robert C. Bruce, 202–343–8735.

SUPPLEMENTARY INFORMATION: A proposed rulemaking on this same subject was published on December 6, 1976, in the Federal Register (41 FR 53429). A comment period of 120 days was allowed in connection with that publication. Public meetings were also held on the proposed rulemaking in a number of the Western States. This public exposure resulted in the receipt of more than 5,000 comments on the proposed rulemaking. We have carefully analyzed these comments and have rewritten the proposed rulemaking on surface management of public lands under U.S. Mining Laws to reflect many of those comments. A summary of the changes is set out below.

The purpose of the rulemaking is restated to more clearly conform with the authority and responsibility of the Secretary under the Federal Land Policy and Management Act of 1976 (FLPMA). Changes in the objectives of the proposed rulemaking is made in order to clarify that they involve procedures to assure as much consistency as possible between the minerals management and environmental protection mandates of the Secretary. Many of the authorities listed in the original proposal are being deleted because they do not provide direct authority for the regulations. Whether Title V of the Federal Land Policy and Management Act constitutes, in whole or in part, additional authority for these regulations is a question currently being considered by the Office of the Solicitor. The remaining items in the authority section are the basis for the general environmental mandate of the Secretary which these proposed rules will implement on mining claims located on public lands. Section 3809.0–4 has been deleted because it only restated the obvious and was not deemed necessary.

In the definitions section, the definitions of the terms "prospecting operations" and "exploration operations" have been deleted and the definition of the term "mining operations" expanded to include all mining operations, including prospecting and exploration operations. The terms "operator" and "mining claim" have been slightly modified in order to make them more easily understood.

The terms "casual use" and "significant disturbance" have been deleted from the proposed rulemaking. A good many comments indicated confusion about these two terms and their usage in the rulemaking. After studying the terms and their use in the proposed rulemaking, it was decided that their use was indeed confusing and they could be eliminated from the rulemaking.

The definition of the term "reclamation" has been totally rewritten. It now includes three elements: Reshaping, restoration of soil condition and revegetation. The changes, which we believe make the term easier to understand and more flexible, were made in response to comments that the definition was too inflexible. Flexibility is needed to provide standards for reasonable reclamation of lands disturbed by mining.

"Wilderness values" have been added to the definition of "environment" to insure that an environmental analysis considers those values in Wilderness Study Areas. A new definition of the term "road" has been included because a plan of operations must be filed in every instance where a road is to be constructed or upgraded as part of a mining operation. Road location and other means of access across any public lands will be considered and approved as part of the plan of operations instead of through an application for a right-of-way under title V of the Federal Land Policy and Management Act. If an operator desires a right-of-way as defined in title V of FLPMA, he will apply for it under the regulations issued under title V of FLPMA.

In addition to the term "wilderness" which is defined in the initial proposed rulemaking, there are added definitions of the terms "wilderness study area," "wilderness inventory," "impairment of suitability for inclusion in the Wilderness System," "manner and degree" and "undue and unnecessary degradation," all related terms. These terms are used a number of times in the proposed rulemaking and need to be defined so the public has a clear understanding of their meaning and use.

The policy section, § 3809.0–6, has been rewritten in an effort to make it clearer. Among other changes, the words "not a mere privilege" have been added to make the policy section reflect more precisely that the proposed rulemaking is consistent with the rights of claimants under the provisions of the United States mining laws. Another significant change is the addition of language covering the prevention of undue and unnecessary degradation of the public lands and impairment of wilderness suitability.

Section 3809.0–7 has been changed to reflect the fact that the proposed rulemaking applies to all types of operations on all public lands which are subject to location under the United States mining laws and to locatable mineral rights reserved by the United States, except those in the National Forest System and the National Park System. This section emphasizes that approved means of access across any public lands granted under the United States mining laws are subject to these proposed regulations.

Section 3809.0–8 has been deleted from the proposed rulemaking. This was done to simplify the rulemaking.

The section of the proposed rulemaking dealing with a plan of operations, § 3809.1, has been renumbered to emphasize that this section is the focal point in mining operations and sets the basis for when a plan is needed or not needed. The language of the rewritten section makes clear the point at which a mining claimant will have to file a plan of operation in ongoing mining operations. The section also designates those actions that can be carried on without the filing of a plan of operations. This difference is based on actions that will not normally cause undue or unnecessary degradation or the impairment of wilderness suitability.

The significant difference between this proposed rulemaking and the interim final rulemaking covering mining on lands under wilderness review concerns mining operations in existence on October 21, 1976. Since only a small number of existing mining operations

are expected to occur on lands under wilderness review, it was decided that those operators with mining operations that were in existence on October 21, 1976, would not be required to file a plan of operations unless found to be exceeding manner and degree or causing undue or unnecessary degradation. If, through monitoring, an operator on lands under wilderness review is found to be exceeding manner and degree or is causing undue or unnecessary degradation, that operator can be instructed to come into compliance with the interim final rulemaking, including reclamation, and be required to file a plan of operations.

The public is requested to note and comment on the difference between the provisions of this proposed rulemaking and the interim final rulemaking on lands under wilderness review on the question of excluding those operators with mining operations in existence on October 21, 1976, from the requirement to file a plan of operations so that the Department of the Interior will have those comments for consideration during the decisionmaking process on the final rulemaking.

Many of the changes made in the plan of operations sections are editorial and are designed to make the provision more readable and more easily understood. Many of the changes were designed to make the plan a document that will be useful to the Government but at the same time be less of a burden for the operator to prepare.

Plan approval procedures have been redesigned to emphasize the overall impacts on operations that must be considered by the authorized officer in approving a plan, to accommodate the elimination of the notice of intent provisions that were contained in the previous proposal and to make it clear that time in excess of 90 days provided for plan approval may be needed in those cases where an environmental statemant, compliance with section 106 of the National Historical Preservation Act or section 7 of the Endangered Species Act are required. These changes were adopted in response to comments that felt that the first proposal needed changes in these areas.

In connection with the requirement for an environmental statement, the authorized officer is required to notify the operator if an environmental statement of compliance with the National Historical Preservation Act is required. Further, operations cannot be initiated under an approved plan of operations covered by an environmental impact statement until 30 days after it is submitted to the Environmental Protection Agency. The changes in the proposed rulemaking make the point that only those cultural resources that have been identified and which are covered by the National Historical Preservation Act and Executive Order 11593 will be the basis for delay in the approval of a plan of opertions.

As was pointed out in several of the comments, the proposed rulemaking was silent on the question of whether a plan of operations could be transferred or not. Provisions have been added covering the transfer of a plan of operations.

A new section covering requirements for approval of a plan of operations in wilderness study areas has been added to the proposed rulemaking. This new section is consistent with the responsibility of the Secretary of the Interior under section 603 of the Federal Land Policy and Management Act, and is needed because these regulations, when they become final, will apply to wilderness study areas. This section contains the requirements contained in the 43 CFR Part 3802, the interim final rulemaking covering wilderness study areas. Even though the wilderness provisions are repeated as an integral part of this proposed rulemaking, the provisions have already been contemplated by the completed rulemaking procedure for Part 3802 and no changes are anticipated in the wilderness provisions of the final rulemaking on Part 3809. Section 603(c) of the Federal Land Policy and Management Act provides that the Secretary shall manage wilderness areas so as not to impair their wilderness character. The section will allow mining activities under the United States mining laws in the manner and degree in which they were being conducted on October 21, 1976. A different standard is imposed by the section for mining operations that were commenced after October 21, 1976, in an area designated as a wilderness study area. The procedures in § 3809.1–6 for modification of plans of operations have been changed in response to a number of comments. The changes incorporate an appeal procedure for most plans to the appropriate State Director to provide a greater degree of assurance that approved operations already in progress will not be unreasonably interfered with because of a proposed modification of the plan of operations.

A change in the section dealing with existing operations is designed to bring the proposed rulemaking into conformance with the Forest Service regulations on the period allowed for compliance on existing operations. The new language also makes it clear that the operator must comply with the actions recommended by the authorized officer. This is to assure that the final rulemaking does not condone actions that pose an immediate threat of undue or unnecessary degradation to the public lands, and thereby place the Secretary of the Interior in the position of issuing regulations that violate the provisions of the Federal Land Policy and Management Act.

Changes in the bonding section (§ 3809.1–8) are designed to make it clear that the amount of any bond required will be based on the actual cost of reclamation and that the bond for a single operation can be any amount set by the authorized officer. The authorized officer may determine not to require a bond if the amount of environmental damage is nominal or the past record of the operator for reclamation is excellent. The section also makes it clear that the optional statewide and nationwide bonds do not apply to single operations. This provision was misunderstood by many who commented. The change in subsection (c) is designed to make it clear that statewide and nationwide bonds are an option available to operators who wish to avail themselves of them. If the option is selected by the operator, the minimum amounts are set administratively. Further changes are designed to allow for a reduction of the period of extended liability in non-wilderness areas because revegetation is either likely to occur before the end of the period of extended liability or conditions may not permit it. Five years is usually the minimum period necessary to ascertain whether revegetation will be successful. The authorized officer is given the authority to extend the bond to cover this period. However, to extend liability, the authorized officer is required to balance the likelihood of successful revegetation against the economic impact of extended liability on the operator.

A change was also made in subsection (e) concerning the release of the bond and plan of operations when the mining claim is patented. If the bond—or plan—covered approved means of access is outside the boundaries of the claim, that portion of the bond and plan will remain in effect after the claim is patented. The operator will be released from this portion of the bond and plan only after he either completes reclamation or obtains a right-of-way under title V of FLPMA. New language covering bonds in the California Desert Conservation Area is also incorporated.

Also, in accordance with the responsibility of the Secretary under

section 603 of FLPMA, a new provision, § 3809.1–9, has been added to the proposed rules to clarify the rights and limitations on exploration and mining in any areas which have been designated part of the National Wilderness Preservation System by Congress.

Many of the comments received on the original proposal made the following analysis of the regulations and mining activities in general: because the definition of "significant disturbance" or the delineation of when a plan of operations must be filed are unclear, almost any activity or type of operation will require the operator to file a notice of intent in order to obtain a determination as to whether a plan is required. Successful exploration, especially for smaller operations, is dependent upon avoiding the delay which may be caused by awaiting approval of a notice of intent or plan of operations. The exact nature of exploration is unknown when operations commence and changes as operations proceed. This makes it difficult to file a notice of intent or plan of operations which includes exactly where the operations will take place and to what extent they will be conducted. On the basis of the observations, it was suggested that the regulations be changed to clearly state the requirements, regulate operations in direct proportion to the likelihood of damage, and provide less regulation of fluid exploration operations which demand timely adjustment to changing circumstances.

The original notice of intent/"significant disturbance" concept has been eliminated and replaced with a new procedure which defines more precisely when a plan of operations is required. Under the new procedure (§ 3809.1), "mining operations" and other operations ("prospecting" and "exploration") which involve certain specified activity (road construction, destruction of trees, use of motorized vehicles in closed areas, etc.) will require a plan of operations.

The exception for filing a plan of operations in the case of subsurface mining operations in § 3809.2–2(d) of the first proposed rulemaking has been deleted because it did not adequately define when a plan was required. A specific standard for what subsurface operations would cause significant disturbance could not be formulated. A standard which would permit a specified amount of surface disturbance in connection with subsurface operations was rejected because it would discriminate between surface and subsurface operators. Therefore, a plan is required for both types of mining operations.

The term "technical examination" has been deleted as those requirements are already inherent in the environmental assessment report. The environmental assessment will identify the anticipated impacts and subsequent mitigating measures to be included in an approved plan of operations.

Section 3809.2–1(c) has been changed to clarify that public participation is not required in the plan approval process, but that public participation may be solicited if the means are available to permit realistic consideration of public views within the period permitted for approval of the plan of operations. There is an editorial change in § 3809.2–1(c), and the title of § 3809.2–2 is being changed to better reflect the contents of the section. The guidelines that were in (1) and (2) of § 3809.3–2(b), now § 3809.2–2(b) have been suspended and they have been deleted.

Section 3809.2–2(d), as now drafted, simplifies and clarifies the standard for visual resources by placing responsibility for identifying them on the authorized officer. Subsection (f) of § 3809.2–2 has been changed to indicate that paleontological fossils of rare scientific importance are protected under the authority of FLPMA, as well as the Antiquities Act of 1906. Another change in this subsection transfers the financial responsibility for investigating cultural or paleontological resources discovered during the conduct of operations from the operator to the Government. This will further encourage the preservation of these resources.

Changes have been made in subsection (h) of § 3809.2–2 to correspond with the change in the definition of "reclamation." The change recognizes the site-sensitive nature of reclamation and gives the authorized officer discretion to establish the specific requirements, for reclamation, in each Plan of Operations.

A change is being made in subsection (i) of § 3809.2–2 to make it clear that survey markers will be replaced in accordance with the directions of the authorized officer and that the operator is responsible for only that damage caused by his operations.

Section 3809.4–1 of the first proposed rulemaking has been deleted and replaced by a new § 3809.3–1. New § 3809.3–1 is a rewrite of former § 3809.3–3 that has been substantially changed to require the Secretary to take steps which may culminate in rulemaking to permit the States to enforce their laws and regulations on public land.

After further examination of the authority of the Secretary to issue these regulations, it has been decided that the authorized officer will not unilaterally suspend operations without first obtaining a court order enjoining operations which are determined to be in violation of the regulations. Therefore, appropriate changes have been made in § 3809.3–2. Violators of the regulations may still be subject to court action for damages if there is no bond to cover the damage done.

Section 3809.3–3 has been changed to clarify the right of access by the operator and to permit the operator to comply with State and local laws or ordinances concerning health and safety without obtaining the approval of the authorized officer. It has also been changed to accord with the alteration of the rights of claimants to the surface of mining claims under the Act of July 23, 1955. A similar change concerning the right of access by governmental representatives has been made in § 3809.3–7.

Finally, a change has been made in § 3809.3–9 that is designed to permit variances for structures and other facilities which may be beneficial to the public. A change in former § 3809.5, now § 3809.4, the appeals section, is designed to make it clear that the general public does not have a right to appeal a decision of the authorized officer.

The principal authors of this proposed rulemaking are Robert Anderson of the Division of Minerals Resources and Robert C. Bruce of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staffs of the Assistant Secretary for land and Water Resources and of the Office of the Solicitor.

A large number of the comments received questioned the determination made in the initial proposed rulemaking that the issuance of the document did not require the preparation of a regulatory analysis. After careful consideration of the comments and the content of the proposed rulemaking, the Department of the Interior decided that this document is a significant rulemaking and requires a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

It is hereby determined that the publication of this proposed rulemaking is a major Federal action significantly affecting the quality of the human environment and an environmental statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required and has been prepared.

Under the authority of sections 2319 (30 U.S.C. 22) and 2478 (43 U.S.C. 1201) of the Revised Statutes and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3800, Group 3800, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is revised by adding a new Subpart 3809 as follows:

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

General

Subpart 3809—Surface Management

Authority: Sec. 2319 of the Revised Statutes (30 U.S.C. 22 et seq.), Sec. 2478 of Revised Statutes, as amended (43 U.S.C. 1201); secs. 302, 303, 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

General

Subpart 3809—Surface Management

§ 3809.0-1 Purpose.

The purpose of this subpart is to establish procedures to afford environmental protection to public lands and their resources by preventing impairment of wilderness suitability or undue or unnecessary degradation of the lands and resources which may result from mining operations authorized by the United States mining laws (30 U.S.C. 22-54).

§ 3809.0-2 Objectives.

The objectives of this regulation are to:

(a) Allow and not unduly hinder mineral entry, exploration, location, operations and purchase pursuant to the United States Mining Laws, in ways that will protect the scenic, scientific and enviromental values of the public lands against impairment of wilderness values and undue or unnecessary damage and to provide that management with respect to minerals operations is coordinated with appropriate State and local govermental agencies.

(b) Assure management programs that reflect consistency between the United States mining laws and other appropriate statutes.

§ 3809.0-3 Authority.

(a) Section 2319 of the Revised Statutes (30 U.S.C. 22 *et seq.*) provides that the exploration, location and purchase of valuable mineral deposits on the public lands shall be "under regulations prescribed by law," and section 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), provides that those regulations shall be issued by the Secretary.

(b) Sections 302, 303, 601 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) require the Secretary to take any action, by regulation or otherwise, to prevent impairment or unnecessary or undue degradation of the public lands and other resources, or afford environmental protection.

§ 3809.0-5 Definitions.

As used in this subpart, the term:

(a) "Mining operations" means all functions, work, facilities, and activities in connection with the prospecting, development, and extraction or processing of mineral deposits locatable under the provisions of the Mining Law of 1872 and all uses reasonably incident thereto, whether on a mining claim or not, including the construction of roads and other means of access to and across lands subject to these regulations and making road improvements, whether the operations take place on or off the claim.

(b) "Operator" means a person conducting or proposing to conduct mining operations.

(c) "Mining claim" means any unpatented mining claim, millsite, or tunnel site authorized by the United States mining laws.

(d) "Reclamation," which shall be commenced, conducted and completed as soon after disturbance as possible without undue interference with mining operations, means—

(1) As it applies to wilderness study areas or potential wilderness study areas:

(A) Reshaping of the lands disturbed or affected by mining operations, to its approximate original contour or to an appropriate contour, considering the surrounding topography as determined by the authorized officer;

(B) Restoring such reshaped lands by replacement of top soil; and,

(C) Revegetating the lands by using species previously occurring in the area at least to the point where natural succession is occurring.

(2) As it applies to all other public lands:

(A) Reshaping of the land disturbed or affected by mining operations, where feasible, to its approximate original contour or to an appropriate contour considering the surrounding topography and approved post-mining or post-exploration uses of the area as determined by the authorized officer. The authorized officer may approve the retention of a stable highwall or other mine workings to preserve evidence of mineralization or where reclamation is not feasible;

(B) Restoring such lands, where feasible, by the replacement of top soil;

(C) Revegetating such lands, where feasible, so as to provide a diverse vegetative cover, native to the area (or introduced species where desirable and necessary to achieve the approved post-mining or post-exploration land use) and capable of self-regeneration at least equal in permanence to the natural vegetation.

(e) "Environment" means surface and subsurface resources, both tangible and intangible, including air, water, mineral, scenic, cultural, paleontological, vegetative, soil, wildlife, fish and wilderness values.

(f) "Road" means an access route which has been improved and maintained by mechanical means to ensure relatively regular and continuous use by vehicles. It does not include a trail or way which has been created and is maintained solely by the passage of vehicles.

(g) "Wilderness" means an area of undeveloped public land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which;

(1) Generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(2) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation;

(3) Has at least 5,000 acres of land or is of sufficient size as to make practicable its preservation or a roadless island; and

(4) May also contain ecological, geological or other features of scientific, educational, scenic or historical value. It also means, in contrast with those areas where man and his own works dominate the landscape, an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.

(h) "Wilderness study area" means a roadless area of 5,000 acres or more or roadless island which has been found to have wilderness characteristics (thus having the potential of being included in the National Wilderness Preservation System), which shall be subject to intensive analysis through the Bureau of Land Managment's planning system and public review to determine wilderness suitability, and is not yet the subject of the Congressional decision regarding its designation as wilderness.

(i) "Wilderness inventory" means an evaluation conducted under the Bureau of Land Management wilderness inventory procedures in the form of a written description and map showing those lands that meet the wilderness criteria established under section 603(a) of the Federal Land Policy and Management Act.

(j) "Impairment of suitability for inclusion in the Wilderness System" means taking actions that cause impacts, that cannot be reclaimed to the point of being substantially unnoticeable in the ares as a whole by the time the Secretary of the Interior is scheduled to make a recommendation to the President on the suitability of a wilderness study area for the inclusion in the National Wilderness Preservation System, or have degraded wilderness values so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability for preservation as wilderness.

(l) "Manner and degree" means existing operation will be defined geographically by the area of active development and the logical adjacent (not necessarily contiguous) continuation of the existing activity, and not necessarily by the boundary of a particular claim, and in some cases, a change in the kind of activity if the impacts from the continuation and change of activity are not of a significantly different kind than the existing impacts. However, the signifianct measure for these activities is still the impact they are having on the wilderness potential of an area. It is the actual use of the area, and not the existence of an entitlement for use, which is the controlling factor. In other words, an existing activity, even if impairing, may continue to be expanded in an area or progress to the next stage of development so long as the additional impacts are not significantly different than those caused by the existing activity. In determining the manner and degree of existing operations, a rule of reason shall be employed.

(l) "Valid existing right" means a valid discovery had been made on a mining claim on October 21, 1976, and continues to be valid at the time of exercise.

(m) "Undue or unnecessary degradation" means impacts greater than those that would normally be expected from an activity being accomplished in compliance with current standards and regulations and based on sound practices including use of the best reasonable available technology.

(n) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(o) "Substantially unnoticeable" means something that either is so insignificant is to be only a minor feature of the overall area or is not distinctly recognizable by the average visitor as being man-made or man-caused because of age, weather or biological change.

§ 3809.0-6 Policy.

It is the policy of this regulation to encourage the development of Federal mineral resources. Under the 1872 Mining Law (30 U.S.C. 22 *et seq.*), a person has a statutory right, not a mere privilege, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) public lands for the purpose of mineral prospecting, exploration, development and extracting. Statutory responsibilities require that mining operations include adequate and responsible measures to prevent undue or unncecessary degradation of the public lands, impairment of wilderness suitability and hazards to the public health and safety.

§ 3809.0-7 Scope.

(a) These regulations apply to mining operations conducted under the United States Mining Laws, as they affect the resources and environment of all public lands which are subject to location under those laws, and to lands where the surface has been patented and the minerals subject to location under those laws have been reserved by the United States, except those within units of the National Park System, and within the National Forest System.

(b) These regulations apply to mining operations conducted on lands subject to the following laws:

(1) Section 9 of the Act of December 29, 1916 (43 U.S.C. 299), stockraising homesteads;

(2) The Act of January 29, 1929 (30 U.S.C. 300), stock-driveway withdrawals;

(3) The Act of April 23, 1932 (43 U.S.C. 154), reclamation withdrawals;

(4) The Act of April 8, 1949 (62 Stat. 162), revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands;

(5) The Alaska Public Sales Act of August 30, 1949 (43 U.S.C. 687b-2 and b-4); and

(6) The Wild and Scenic Rivers Act of October 2, 1968, as amended (16 U.S.C. 1271-1278).

(c) These regulations apply to roads and other approved means of access across public land, constructed or maintained under the United States mining laws.

§ 3809.1 Plan of operations.

An approved plan of operations shall include appropriate environmental protection and reclamation measures selected by the authorized officer that shall be carried out by the operator. An operator may prepare and submit with a plan of operations measures for the reclamation of the affected area.

§ 3809.1-1 When required.

An approved plan of operations is required prior to commencing:

(a) Any mining operations which involve construction of roads, bridges, landing areas for aircraft, or improving or maintaining such access facilities in a way that alters the alignment, width, gradient, size or character of such facilities;

(b) Any mining operations which destroy trees two or more inches in diameter at the base;

(c) Mining operations using tracked vehicles or mechanized earth moving equipment, such as bulldozers or backhoes;

(d) Any mining operations using motorized vehicles over other than "open use areas and trails" as defined in Subpart 8340 of this title, *Off-Road Vehicles*, or which violate the restrictions of limited areas or tracts unless the use of a motorized vehicle is covered by a temporary use permit issued under Subpart 8372 of this title.

(e) The construction or placing of any mobile, portable or fixed structures on public lands for more than 30 days;

(f) Any mining operations requiring the use of explosives; or,

(g) Any operation which may cause changes in a water course.

§ 3809.1-2 When not required.

A plan of operations is not required when:

(a) Searching for and occasionally removing mineral samples or specimens;

(b) Operating motorized vehicles over "open use areas and trails" or "limited areas and trails" as defined in Subpart 8340 of this title, so long as the vehicles conform to the operating regulations and vehicle standards contained in that subpart, and do not violate the restrictions of limited areas and trails;

(c) Maintaining or making minor improvements of existing roads, trails, bridges, landing areas for aircraft, or other facilities for any other means of access where such improvement or maintenance does not alter the alignment, width, gradient, size or character of such facilities; or

(d) Making geological, radiometric, geochemical, geophysical or other tests and measurements using instruments, devices or drilling equipment which are transported without using mechanized earth moving equipment or tracked vehicles.

§ 3809.1-3 Contents of plan.

(a) A plan of operations shall be filed with the District Office of the Bureau of Land Management in which the claim is located.

(b) No special form is required to file a plan of operations.

(c) The plan of operations shall include:

(1) The name and mailing address both of the person for whom the operations will be conducted and of the person who will be in charge of the operations and should be contacted concerning reclamation or other aspects of the operation (any change in the mailing address shall be reported promptly to the authorized officer);

(2) A map, preferably a topographic map, or sketch showing present road, bridge, or aircraft landing area locations or other means of access, proposed road, bridge, aircraft landing area locations or other means of access, and size of areas where surface resources will be disturbed;

(3) Information sufficient to describe either the entire operation proposed or reasonably foreseeable operations (See § 3809.1-6 of this title) and how they would be conducted, including the nature and location of actual or proposed structures and facilities. An operator may submit proposed reclamation measures as part of the plan of operations. (See § 3809.2-2 of this title).

(4) The type and condition of existing and proposed roads, bridges or aircraft landing areas, including other means of access, the means of transportation to be used and the estimated period during which the proposed activity will take place;

(5) If and when applicable, the serial number assigned to the mining claim, mill or tunnel site filed pursuant to subpart 3833 of this title, and

(6) For mining operations on-going in wilderness study areas on or before October 21, 1976, a statement as to manner and degree of the mining operations as they occurred on or before October 21, 1976.

§ 3809.1-4 Plan approval.

(a) The authorized officer shall promptly acknowledge receipt of a plan of operations;

(b) Within 30 days of receipt of a plan of operations, the authorized officer shall review the proposal, considering the economic, technical and legal factors of the operation in determining the requirements needed to prevent impairment of wilderness suitability on lands under wilderness review or undue or unnecessary degradation of the public lands, and notify the operator, in writing:

(1) That the plan of operations is approved or is unacceptable and the reasons therefor; or

(2) Of any changes in, or additions to, the plan of operations considered necessary to meet the purpose of these regulations;

(3) That information sufficient to describe either the entire operation is being reviewed, but that more time, not to exceed an additional 60 days is necessary to complete such review, setting forth the reasons why additional time is needed, except in those instances where it is determined that an Environmental Impact Statement or compliance with section 106 of the National Historic Preservation Act (NHPA) or the Endangered Species Act is needed. Periods during which the area of operations is inaccessible for inspection due to climatic conditions, fire hazards or other physical conditions or legal impediments, shall not be included when counting the 60 calendar day period; or

(4) The proposed operations do not require a plan of operations.

(c) If the authorized officer does not notify the operator of any action on the plan of operations within the 30-day period, or the 60-day extension, or notify the operator of the need for an Environmental Impact Statement or compliance with section 106 of the NHPA or section 7 of the Endangered Species Act, operations may proceed as set out in the plan of operations. The option to begin operations under this section does not constitute approval of a plan of operations. However, if, at a later date, the authorized officer finds the operations being conducted under an unapproved plan are either impairing wilderness suitability or causing undue or unnecessary degradation of the public lands, the authorized officer shall notify the operator that the operations are not in compliance. If the operator is notified of the need for an Environmental Impact Statement, the plan of operations shall not be approved before 30 days after a final statement is prepared and made availabe to the Environmental Protection Agency, commenting agencies, and the public. If the operator is notified of the need for compliance with section 106 of NHPA or section 7 of the Endangered Species Act, the plan of operations shall not be approved until the compliance responsibilities of the Bureau of Land Management are satisfied.

(d) The authorized officer shall undertake an appropriate level of cultural resource inventory of the areas to be disturbed. The inventory shall be completed within the time allowed by these regulations for approval of the plan of operations. If properties, including cultural resource properties listed on or eligible for listing on the National Register of Historic Places, are identified during the inventory, no operations which would affect those resources shall be approved until compliance with section 106 of the NHPA is accomplished. The operator is not required to do or to pay for an inventory or salvage. The responsibility and cost of the cultural resource mitigation included in an approved plan of operation shall be the operator's.

(e) Pending final approval of the plan of operations, the authorized officer may approve any operations that may be necessary for timely compliance with requirements of Federal and State laws. Such operations shall be conducted so as to prevent impairment of wilderness suitability or undue or unnecessary degradation.

(f) The transfer of a plan of operations shall become effective only after the transferee has satisfied the requirements of § 3809.1-8 as it relates to bonds.

§ 3809.1-5 Additional requirements for approval of a plan of operations on lands under wilderness review.

In addition to the requirements for approval of a plan of operations set forth above, the following additional requirements shall be met for mining operations on lands of 5,000 acres or more or roadless islands under wilderness review:

(a) For mining operations existing on October 21, 1976, the authorized officer shall determine whether the mining operations on the date of submission of the plan of operations differ in manner and degree from the operations which were in existance on October 21, 1976. Pending approval of a plan of operations, mining operations may continue in the same manner and degree as on October 21, 1976, subject to measures that shall prevent undue or unnecessary degradation of public lands and resources as determined by the authorized officer. The authorized officer shall not approve a plan of operations for mining operations that exceed the manner and degree of those operations existing on October 21, 1976, the impacts of which impair the suitability of the area for preservation as wilderness. However, the authorized officer may permit modifications to be made to make the plan acceptable.

(b) For mining operations begun after October 21, 1976, the authorized officer shall review the plan of operations to determine if the operations are impairing the suitability of the area for preservation as wilderness. Pending approval of the plan of operations, mining operations may continue in a manner that prevents undue or unnecessary degradation. After completing the review of the plan of operations, the authorized officer shall give the operator written notice that:

(1) The plan is approved subject to measures that shall prevent the impairment of suitability of an area for preservation as wilderness as determined by the authorized officer; or

(2) The anticipated impacts of the mining operations are such that all or part of further operations will impair the suitability of the area for preservation as wilderness, and the plan is disapproved and continuance of such operations is not allowed.

(c) A plan of operations on a claim with a valid existing right shall be approved subject to measures that shall prevent undue or unnecessary degradation of the area.

§ 3809.1-6 Modification of plan.

(a) If the development of a plan for an entire operation is not possible, the operator shall file an initial plan setting forth his proposed operation to the degree reasonably foreseeable at that time. Thereafter, the operator shall file a supplemental plan or plans prior to undertaking any operations not covered by the initial plan.

(b) At any time during operations under an approved plan of operations, the authorized officer or the operator may initiate a modification of the plan detailing any necessary change that was unforeseen at the time of filing of the plan of operations. If the operator does not furnish a proposed modification within a time considered reasonable by the authorized officer, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the supporting facts and reasons for his recommendations. In acting upon such recommendation, except modifications submitted under § 3809.1-4(c), the State Director shall determine;

(1) Whether all reasonable measures were taken by the authorized officer to predict the environmental impacts of the proposed operations;

(2) Whether the disturbance is or may become of such significance as to require modification of the plan of operations in order to meet the requirement for environmental protection specified in § 3809.2-2; and

(3) Whether the disturbance can be minimized using reasonable means. Lacking such a determination by the State Director, an operator is not required to submit a proposed modification of an approved plan of operations. Operations may continue in accordance with the approved plan of operations until a modified plan is approved, unless the State Director determines that the operations are causing impairment of wilderness suitability or undue or unnecessary degradation to surface resources. The State Director shall advise the operator of those measures needed to avoid such damage and the operator shall immediately take all necessary steps to implement measures recommended by the State Director.

(c) A supplemental plan of operations or a modification of an approved plan of operations shall be approved by the authorized officer in the same manner as the initial plan of operations.

§ 3809.1-7 Existing operations.

(a) Persons conducting mining operations on the effective date of these regulations, who would be required to submit a plan of operations under § 3809.1-1 may continue operations but shall, within 120 days after the effective date of these regulations, submit a plan of operations. Upon a showing of good cause, the authorized officer shall grant an extension of time to submit a plan of operations not to exceed an additional 180 days.

(b) Operations may continue according to the submitted plan of operations during its review. If the authorized officer determines that the operations are causing impairment of wilderness suitability or undue or unnecessary degradation of the lands involved, the authorized officer shall advise the operator of those measures needed to avoid such damage, and the operator shall immediately take all necessary steps to implement measures recommended by the authorized officer.

(c) Upon approval of a plan of operations, mining operations shall be conducted in accordance with the approved plan.

§ 3809.1-8 Bond requirements.

(a) Any operator who conducts mining operations under an approved plan of operations shall, if required to do so by the authorized officer, furnish a bond in an amount determined by the authorized officer. the authorized officer may determine not to require a bond in circumstances where mining operations would cause nominal damage, or the operator has an excellent past record for reclamation. In determining the amount of the bond, the authorized officer shall consider the estimated cost of stabilizing and reclaiming all areas disturbed consistent with § 3809.2-2(h).

(b) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a face and market value at the time of deposit of not less than the required dollar amount of the bond.

(c) In place of the individual bond on each separate operation, a blanket bond of not less than $100,000 covering statewide operations, or of not less than $300,000 covering nationwide operations, may be furnished, at the option of the operator, if the terms and conditions as determined by the authorized officer are sufficient to comply with these regulations.

(d) In the event that an approved plan of operations is modified in accordance with § 3809.1-6 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, shall adjust the amount of bond required to conform to the plan of operations, as modified.

(e) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond and plan of operations which applies to operations within the boundaries of the patented lands. The authorized officer shall release the operator from the remainder of the performance bond and plan of operations, including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has either completed reclamation in accordance with paragraph (f) of this section or been granted a right-of-way for such means of access under title V of the Federal Land Policy and Management Act. This provision does not apply to patents issued within the boundaries of the California Desert Conservation Area.

(f)(1) When all or any portion of the reclamation has been completed in accordance with paragraphs (g) and (h) of § 3809.2–2, the operator shall notify the authorized officer who shall promptly make a joint inspection with the operator. The authorized officer shall then notify the operator whether the performance under the plan of operations is accepted. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall reduce proportionally the amount of bond with respect to the remaining reclamation. Except in lands under wilderness review, the authorized officer may continue the bond as it relates to revegatation for only the amount necessary for revegetation of each planting area for a period not to exceed 5 years after the first vegetative planting. The financial liability incurred by the operator as a result of the continuation of the bond shall not exceed an amount directly proportionate to to the probability of successful revegetation.

(2) When, during any extended period of a bond, the authorized officer determines that revegetation is likely to be successful before the end of such period, or that natural conditions will preclude successful revegatation, the authorized officer may release the operator from liability under the bond for revegetation of the planting area.

§ 3809.1–9 Operations within Bureau of Land Management wilderness areas.

(a) The United States mining laws shall extend to each Bureau of Land Management Wilderness Area until midnight December 31, 1983. Subject to valid existing rights, no person shall have any right or interest in or to any mineral deposit which may be discovered through prospecting and exploration operations or other information-gathering activity conducted after the date on which the United States mining laws cease to apply to the specific Wilderness Area.

(b) Persons locating mining claims in any Bureau of Land Management Wilderness Area on or after the date on which said Wilderness Area was included in the National Wilderness Preservation System shall be accorded the rights provided by the provisions of the Wilderness Act which apply to national forest wilderness areas.

§ 38909.2 Environmental protection.

§ 3809.2–1 Environmental assessment.

(a) When a plan of operations or significant modification is filed, the authorized officer shall make an environmental assessment to identify the impacts of the proposed mining operations upon the environment and determine whether an environmental impact statement is required.

(b) Following completion of the environmental assessment, the authorized officer shall develop measures deemed necessary for inclusion in the plan of operations that shall prevent impairment of wilderness suitability or undue or unnecessary degradation of lands and resources.

(c) If, as a result of the environmental assessment, the authorized officer determines that there is substantial pubic interest in the proposed mining operations, the operator may be notified that an additional period of time is required to consider public comments. The period shall not exceed the additional 60 days provided for approval of a plan in § 3809.1–4, except as provided for in cases requiring an environmental impact statement, a cultural resources inventory or compliance with section 7 of the Endangered Species Act.

(d) If the surface resources of the lands involved are administered by an agency other than the Bureau of Land Management, that agency shall be responsible for the environmental assessment. In cases of mixed administration, the agencies shall make a joint environmental assessment.

§ 3809.2–2 Requirements for environmental protection.

(a) *Air quality.* The operators shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act (42 U.S.C. 1857 *et seq.).*

(b) *Water Quality.* The opertor shall compy with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1151 *et seq.).*

(c) *Solid Wastes.* The operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse or waste shall either be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the environment and the surface resources. All tailings, waste rock, trash, deleterious materials or substances and other waste produced by operations shall be deployed, arranged, disposed of or treated to minimize adverse impact upon the environment, subsurface and surface resources.

(d) *Visual Resources.* The operator shall, to the extent practicable, harmonize operations with the visual resources identified by the authorized officer, through such measures as the design, location of operating facilities and improvements to blend with the landscape.

(e) *Fisheries, Wildlife and Plant Habitat.* The operator shall take such action as may be needed to minimize or prevent adverse impact upon plants, fish, and wildlife, especially threatened or endangered species, and their habitat which may be affected by the operations.

(f) *Cultural and Paleontological Resources.*

(1) The operator shall not knowingly disturb, alter, injure, destroy or take any scientifically important paleontological remains or any historical, archaeological, or cultural district, site, structure, building or object.

(2) The operator shall immediately bring to the attention of the authorized officer any such cultural and/or paleontological resources that might be altered or destroyed by his operation, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his attention, and determine within 10 working days what action shall be taken with respect to such discoveries.

(3) The responsibility and the cost of investigations and salvage of such values discovered during approved operations shall be the Federal Government's.

(g) *Roads.* No new roads or temporary access routes that would cause more than temporary impact and therefore would impair wilderness suitability shall be constructed in a wilderness study area. Roads and temporary access routes shall be constructed and maintained to assure adequate drainage and to control or prevent damage to soil, water and other resource values. Unless

otherwise approved by the authorized officer, roads or temporary access routes no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts shall be removed; cross drains, dips or water bars shall be constructed, and the road or temporary access route surface shall be shaped to as near a natural contour as practicable and be stabilized and revegetated as required in the plan of operations.

(h) *Reclamation.* (1) Unless a longer time is allowed by the authorized officer, the operator shall perform reclamation of those lands disturbed or affected by the mining operations conducted under an approved plan of operations as contemporaneously as feasible with operations. The disturbance or effect on mined land shall not include that caused by separate operations in areas abandoned before the effective date of these regulations.

(2) An operator may prepare and submit with a plan of operations measures for reclamation of the affected area.

(i) *Protection of survey monuments.* The operator shall, to the extent practicable and consistent with the operation, protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against destruction, obliteration or damage from the approved operations. If, in the course of operations, any monuments, corners or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing trees and line trees.

(j) *Areas of Critical Environmental Concern.* The operator shall take action as may be necessary to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards in designated areas of critical environmental concern.

§ 3809.3 General provisions.

§ 3809.3-1 Applicability of State law.

(a) After the effective date of these regulations, and from time to time thereafter, the Secretary shall direct a prompt review of State laws and regulations in effect or adopted and due to come into effect, relating to reclamation of lands disturbed by exploration for or surface mining of minerals locatable under the United States mining laws. If, after such review, the Secretary determines that the requirements of the laws and regulations of any such State afford general protection of environmental quality and values at least as stringent as would occur under exclusive application of these regulations, he shall, by rulemaking, direct that the requirements of such State laws and regulations (including those relating to bonding) thereafter be applied as conditions upon the approval of any proposed plan of operations.

(b) After the effective date of these regulations, the Secretary shall consult with appropriate representatives of each State to formulate and enter into agreements to provide for a joint Federal-State program for administration and enforcement. The purpose of the program would be to prevent unnecessary or undue degradation or affort environmental protection of the public lands and their resources from exploration and mining operations which are conducted under the United States mining laws. The Secretary shall make such an agreement only after a determination that the State has the capability to carry out the administration and enforcement program. Such agreements shall, whenever possible, provide for State administration and enforcement of such programs: *Provided,* That Federal interests are protected. Any such agreement shall be entered into by rulemaking, and shall have its principal purpose the avoidance of duplication of administration and enforcement of reclamation laws governing locatable mineral deposits on public lands.

(c) Before final rules are issued which implement the provisions of paragraphs (a) and (b) of this section, certification or other approval issued by State agencies of compliance with laws and regulations (including those relating to bonding) may be accepted by the authorized officer as compliance with similar or parallel requirements of these regulations.

§ 3809.3-2 Noncompliance.

(a) An operator who conducts mining operations undertaken either without an approved plan of operations or without taking actions specified in a notice of noncompliance within the time specified therein, may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(b) Whenever the authorized officer determines that an operator is failing or has failed to comply with the requirements of an approved plan of operations, or with the provisions of these regulations and that non-compliance is causing impairment of wilderness suitability or undue or unnecessary degradation of the resources of the lands involved, the authorized officer shall serve a notice of noncompliance upon the operator by delivery in person to the operator or his authorized agent, or by certified mail addressed to his last known address.

(c) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of the plan of operations or the provisions of applicable regulations, and shall specify the actions which are in violation of the plan or regulations and the actions which shall be taken to correct the non-compliance and the time limits, not to exceed 30 days, within which corrective action shall be taken.

§ 3809.3-3 Access.

(a) An operator is entitled to non-exclusive access to his mining operations consistent with provisions of the United States mining laws and Departmental regulations.

(b) In approving access as part of a plan of operations, the authorized officer shall specify the location of the access route, the design, construction, operation and maintenance standards, means of transportation and other conditions necessary to prevent the impairment of wilderness suitability, protect the environment, the public health and safety, Federal property and economic interests, and the interests of other lawful users of adjacent lands or lands traversed by the access road. The authorized officer may also require the operator to utilize existing roads in order to minimize the number of separate rights-of-way, and, if practicable, to construct access roads within a designated transportation and utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3809.3-4 Multiple-use conflicts.

In the event that uses under any lease, license, permit or other authorization pursuant to the provisions of any other law, conflict, interfere with, or endanger operations in approved plans or otherwise authorized by these regulations, the conflicts shall be reconciled, as much as practicable, by the authorized officer.

§ 3809.3-5 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires on the area of mining operations.

§ 3809.3-6 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced or otherwise identified to protect the public in accordance with applicable Federal and State law and regulations.

§ 3809.3-7 Inspection.

The authorized officer shall periodically inspect operations to determine if the operator is complying with these regulations and the approved plan of operations, and the operator shall permit access of the authorized officer for this purpose.

§ 3809.3-8 Notice of suspension of operations.

(a) Except for seasonal suspension, the operator shall notify the authorized officer of any suspension of operations within 30 days after such suspension. This notice shall include:

(1) Verification of intent to maintain structures, equipment and other facilities, and

(2) The expected re-opening date.

(b) The operator shall maintain the operating site, structures and other facilities in a safe and environmentally acceptable condition during non-operating periods.

(c) The name and address of the operator shall be clearly posted and maintained in a prominent place at the entrances to the area of mining operations during periods of non-operation.

§ 3809.3-9 Cessation of operations.

The operator shall, within 1 year following cessation of operations, remove all structures, equipment and other facilities and reclaim the site of operations, unless variances are agreed to, in writing, by the authorized officer. Additional time may, unless otherwise prohibited, by granted by the authorized officer upon a showing of good cause by the operator.

§ 3809.4 Appeals.

(a) Any party adversely affected by a decision of the authorized officer or the State Director made pursuant to the provisions of this subpart shall have a right of appeal to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title.

(b) In any case involving lands under the jurisdiction of any agency other than the Department of the Interior, or an office of the Department of the Interior other than the Bureau of Land Management, the office rendering a decision shall designate the authorized officer of such agency as an adverse party on whom a copy of any notice of appeal and any statement of reasons, written arguments, or briefs shall be served.

§ 3809.5 Public availability of information.

(a) Except as provided herein, all information and data, including plans of operation, submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) Information and data submitted and specifically identified by the operator and so determined by the authorized officer as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination.

(c) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

§ 3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert conservation area.

All patents issued on mining claims located within the boundaries of the California Desert Conservation Area shall contain provisions making said patent subject to these regulations, including provisions for continuation of mining plans and bonding provisions as they apply to the lands covered by the patent.

James W. Curlin,

Acting Assistant Secretary of the Interior.

February 27, 1980.

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Part VI

Department of the Interior

Bureau of Land Management

Exploration and Mining, Wilderness Review Program

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[Circular No. 2457]

Exploration and Mining, Wilderness Review Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking provides for the management and protection of public lands under wilderness review. The Federal Land Policy and Management Act of 1976 requires that certain public lands be reviewed to determine their suitability for inclusion in the National Wilderness Preservation System. Mining operations may continue in wilderness study areas during the review in the same manner and degree as they were conducted on October 21, 1976, provided that no undue or unnecessary damage is being done to public lands and resources in wilderness study areas and that environmental protection is afforded. The intention of this rulemaking is to protect potential and identified wilderness study areas from the loss of wilderness suitability that might result from mining operations.

EFFECTIVE DATE: April 2, 1980.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (520), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert M. Anderson (202) 343-8537, or Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the Federal Register on January 12, 1979 (43 FR 2623). Comments were invited for 60 days. Comments were received from 160 different sources, with 27 coming from companies with mining interests of one kind or another, 15 from mining groups and associations, 21 from environmental groups, 10 from State and local agencies, 5 from Federal agencies, 3 from attorneys and 78 from individuals. Also received was a petition commenting on the proposed rulemaking that had 289 signatures in addition to the signature of the individual who submitted the original comments. In addition, comments on the Bureau of Land Management's Interim Management Policy for Wilderness, the policy statement that relates to areas included in this rulemaking were considered in the preparation of the final rulemaking.

General Comments

The general comments on the proposed rulemaking were extremely varied, ranging from comments questioning the authority for issuing the proposed rulemaking to comments supporting the proposed rulemaking and urging that it be made stronger.

One area that drew several strong comments was the application of the proposed rulemaking to wilderness study areas and potential wilderness study areas. Many of the comments were of the opinion that the Federal Land Policy and Management Act did not give the Secretary of the Interior authority to impose restrictions on mining activities authorized by the Mining Law of 1872 until those lands had been identified as wilderness study areas. Some comments went further and indicated that even if an area was identified as a wilderness study area, the limitations that could be imposed were less than those contained in the proposed rulemaking.

Many of the comments indicated that the rulemaking would result in limiting mining activities on all 450 million acres of the public lands until such time as the wilderness inventory was completed. The Department of the Interior and the Bureau of Land Management do not believe this to be the case. At the outset of the wilderness inventory process, the Department of the Interior and the Bureau of Land Management recognized that not all of the public lands had wilderness characteristics and many millions of acres would be eliminated during the inventory process.

All of the public land states except Alaska have completed their initial wilderness inventory. The initial inventory covered approximately 175 million acres of public lands and unsurveyed islands. As a result of this initial inventory, approximately 46.4 million acres have been identified for intensive inventory, eliminating approximately 117 million acres in the public land States outside of Alaska from further consideration in the wilderness inventory process, thus removing them from the restrictions imposed by this interim final rulemaking. The intensive inventory process will further reduce the acreage that is included in the wilderness study areas and the amount of the public lands that are subject to this interim final rulemaking. The inventory process will proceed as rapidly as possible. However, until the inventory process is completed on September 30, 1980, the Secretary of the Interior has the responsibility imposed on him by the Federal Land Policy and Management Act to protect those public lands being inventoried for wilderness suitability from activities that may destroy their suitability for inclusion in the wilderness system. The interim management policy for wilderness and this interim final rulemaking are designed to give that protection to the lands under wilderness review.

Other comments felt strongly that the Secretary of the Interior should take steps to stop all activities that might damage or impair the wilderness characteristics of the public lands until the wilderness inventory process is completed. These comments stated that lands on which there are many mining operations, particularly activity in the desert or high mountain country, could never be restored, so that mining activity must be stopped. This group of comments wanted the proposed rulemaking strengthened significantly to afford the protection that they felt was necessary. The interim final rulemaking carries out the Congressional mandate contained in the Federal Land Policy and Management Act to protect lands that are being inventoried for wilderness characteristics, yet allows the continuance of certain activities specified by the Federal Land Policy and Management Act.

This interim final rulemaking addresses five different practical situations regarding public lands under wilderness review. First, it establishes the general standard that public lands under wilderness review must be managed so as not to impair their suitability for preservation as wilderness. This applies to all uses and activities except those specifically exempted from this standard by the provisions of the Federal Land Policy and Management Act.

Second, those mining uses that existed on October 21, 1976, may continue in the same manner and degree as on that date, even if the use would impair wilderness suitability.

Third, public lands under wilderness review may not be closed to appropriation under the mining laws in order to protect their wilderness character, and so are open to the location of mining claims.

Fourth, valid existing rights must be recognized.

Fifth, the public lands must be managed to prevent undue and unnecessary degradation of those public lands.

The interim final rulemaking will assist the Department of the Interior in its responsibility to ensure that, when the President makes his recommendations to Congress for areas to be included in the National

Wilderness Preservation System, each such wilderness study area satisfies the definition of wilderness contained in section 2(c) of the Wilderness Act. For practical purposes, it is essential that the public lands contained in a wilderness study area meet the definition at the time the Secretary of the Interior is scheduled to make his recommendations to the President. This is because the President might send his recommendations to the Congress immediately on receipt of the Secretary's recommendations, with the Congress acting quickly on those recommendations. For this reason, the interim final rulemaking requires that the lands be reclaimed from all impacts that impair the wilderness suitability of a wilderness study area by the time the Secretary of the Interior is scheduled to make his recommendations to the President.

Several comments suggested that a board of one type or another be substituted for the authorized officer as the decisionmaking authority on plans of operations. The suggestions as to the composition of the board varied with the interest group represented by the comment. Mining interests wanted mining specialists and environmental groups wanted environmental experts on the board. Since the Secretary of the Interior and those officials to whom he designates his responsibilities have the ultimate responsibility for protecting the wilderness characteristics of the lands under wilderness review, it is essential that they make the decision on plans of operations. The interim final rulemaking so provides.

Another concern expressed in the comments was that the final interim rulemaking and the interim management plan be implemented to cause the least possible interruption to the public use of the public lands under wilderness review. Every effort is being made to carry out the Congressionally mandated wilderness review in the least disruptive manner. As an example, the Department of the Interior is attempting to identify those lands with wilderness characteristics as rapidly as possible so that those lands not possessing wilderness characteristics can be returned to multiple use.

Many of the comments that were general in nature also applied to specific sections of the proposed rulemaking and will be discussed in that part of the preamble on specific comments.

Specific Comments

Purpose—Several comments were made on the purpose section. The most prevalent complaint raised in the comments concerned the use of the phrase "potential wilderness study areas". A few of the comments questioned the authority to include potential wilderness study areas. The interim final rulemaking has been amended to refer to "lands under wilderness review", because this phrase better describes the purposes of the rulemaking. Other comments on this section wanted additional language placed in the section that would broaden the purpose of the rulemaking to include the specific interest of the person making the comment. Except for the amendment just discussed, this section was not changed because it adequately describes the purpose of the interim final rulemaking.

Objectives—This section has also been changed as have later sections to remove the reference to "potential wilderness study areas". The change was in response to several comments. Several other comments on this section expressed the view that the objectives section went much further than needed. After a careful study of the rulemaking and its objectives, the language of paragraph (a) was shortened to contain only a very broad statement of objectives, removing some of the language of the paragraph that was too specific. Finally, this section was amended to delete the words "the spirit and intent of" when referring to consistency with the United States Mining Laws. As the comments pointed out, the rulemaking is to assure consistency with those laws and the amendment makes that clear.

Authority—The comments questioned the use of section 303 of the Federal Land Policy and Management Act as authority for this rulemaking and suggested its deletion. After studying the comments and the provisions of the Federal Land Policy and Management Act, it was determined that sections 302 and 603 are the basic authority for the issuance of the interim final rulemaking and reference to section 303 has been deleted. Another comment wanted section 201 added as authority for the rulemaking. While section 201 is part of the authority for conducting the inventories and carrying out the land use planning responsibilities, it is not the basis of the authority to control surface mining activity, the purpose of this interim final rulemaking. Thus, the recommended change has not been made.

Definitions—This section of the proposed rulemaking was the focus of a large number of comments. Nearly every term in the section was discussed in one or more of the comments and a number of amendments have been made as a result of the comments. The comments made the point that the term "reclamation" was defined in three different places in the definition section. In recognition of this obviously poor arrangement of the section, the interim final rulemaking consolidates all of the information concerning the term "reclamation" in one paragraph, paragraph (a). The new definition is shorter and clearer and meets most of the points raised in the comments about that term.

The comments on the term "environment" requested two changes. The first change recommended was the addition of another sentence to the term as it appeared in the proposed rulemaking. The suggested sentence was further elaboration on what the environment includes and was not needed because the existing definition is clear. The second change requested was the insertion of the word "mineral" in the listing of elements making up the environment. This change has been adopted because minerals are an important element of the environment.

The term "identified wilderness study area" received only one comment other than general comments that referred to the term. All of the comments wanted the term to be limited to roadless areas of 5,000 acres or more. The 5,000 acre and roadless island limitation has been made part of the interim final rulemaking and the suggested change is included in this section. As a result of suggestions adopted, this rulemaking now uses the phrase "lands under wilderness review" in describing lands covered by this rulemaking, instead of the term "potential wilderness study areas". The word "identified" has been deleted because it is no longer needed.

A large number of comments were directed at the term "impairment of suitability for inclusion in the wilderness system." Several of the comments challenged the concept of allowing any impairment in areas under wilderness consideration while several others expressed the view that limitations on impairment should be imposed sparingly and that the five year reclamation period was too short. The wilderness provisions of the Federal Land Policy and Management Act contemplated temporary impacts in areas under wilderness consideration as does this rulemaking. The rulemaking continues to allow temporary impacts if reclamation can be accomplished to restore the area to its condition prior to the disturbance so the area can be included in the wilderness system. As discussed earlier, the question of when reclamation should be required was

carefully studied and it was determined that all reclamation must be accomplished by the date the Secretary of the Interior is scheduled to make his recommendations to the President on each of the wilderness areas. If the areas are to meet the requirements of the Wilderness Act at the time they might be considered by Congress, it is necessary for reclamation to have been accomplished at the time of Secretarial recommendation. Therefore, the language of this term has been amended to reflect this decision.

The definition of "reclamation" has been amended to make it clear that the reclamation standard is to apply to the area as a whole in the determination of whether reclamation has been appropriately accomplished. These additional words clarify the intent of the paragraph.

A comment on the term "mining operations" questioned the use of the word "exploration". In response to this comment, the word "exploration" has been deleted and the more definitive word "prospecting" inserted.

This clarifies exactly the type of operation that is included within the definition of the term. Another change that has been made for clarification was the addition of words making it clear that mining operations cover activities on or off the mining claim, if those activities are on public lands.

No comments were received on the term "operator". The definition of the term has been changed slightly to delete words that are included in the definition of "mining operations" elsewhere in the section.

In response to the many comments that requested the inclusion of the term "authorized officer" in the definition section, that term has been added to this section so that the officer can be identified.

As a result of the many general and specific comments objecting to the use of the term "potential wilderness study area", the term has been deleted from the definition section and from other sections of the interim final rulemaking. The phrase "lands under wilderness review", which is a more accurate description of lands being reviewed for wilderness characteristics, at all stages of this review, has been substituted in other sections of the rulemaking.

The term "manner and degree" drew more comments than any other term in the definition section. Most of the comments expressed the view that any existing activity that caused impacts of an impairing nature in a wilderness area should be stopped. Other comments felt that the definition was too narrow and would halt all existing mining operations in wilderness areas. The term as it is used in the interim final rulemaking permits continuation of existing operations even if they cause permanent impairment of the area as long as there is no change in the "manner and degree" of the operation. The language of the paragraph has been amended to make it clear that there can be a change in activity if the impact caused by the change is not significantly different from that of existing impacts. This amendment will allow changes in mining operations so that mining operations can go forward but only if those operations do not cause different impacts. This provision is consistent with the provisions of the Federal Land Policy and Management Act that authorizes the continuation of activities on existing operations if they are in the same manner and degree as was being conducted on the effective date of the Act.

Three new terms have been added to the interim final rulemaking section on definitions. One of the terms, "undue and unnecessary degradation" was suggested in a number of the comments. The term is used in the interim final rulemaking and the definition is included so that its meaning is clearly understood. The second and third terms are "valid existing right" and "substantially unnoticeable". These terms have been added to clarify their meaning as they are used in the rulemaking.

Policy—For reasons discussed earlier in this preamble, the reference to potential wilderness study areas has been deleted from the policy section. Another change made in the policy section and other sections of the rulemaking as a result of comments is the substitution of the word "operations" for the word "activity" when used in the phrase "mining operations". This change was made to clarify the rulemaking by using a term, "mining operations", that is defined in the rulemaking and its use is clear. Several comments wanted the policy section and other sections of the proposed rulemaking amended to include the words "on or before October 21, 1976", for the words "on October 21, 1976". This change has not been adopted but the interim management policy clearly interprets "on October 21, 1976", to include those operations that might have been temporarily inactive on that specific date if the period of inactivity did not exceed twelve months. This rulemaking will be interpreted in the same way as the guidance set out in the interim management policy and will include those operations that might have been temporarily inactive on October 21, 1976.

In general, the comments on the section indicated that the section overstated the authority of the Secretary of the Interior with reference to controlling mining operations in wilderness areas. The policy section is a clear statement of the Departmental policy on management of mining operations in wilderness areas and the authority for that policy as expressed in the various laws granting authority to protect lands under wilderness review until such time as the Congress determines whether they should or should not be included in the National Wilderness Preservation System. Therefore, the policy section has not been amended except for the changes discussed earlier.

Scope—The scope section of the interim final rulemaking contains two changes. The first change is the elimination of the reference to potential wilderness study areas and is in keeping with that change made in other sections of the rulemaking. The second change is the deletion of the reference to "road" and limits the section's application to "means of access". As several of the comments pointed out, the existence of roads is incompatible with wilderness characteristics and the reference is inappropriate. This change is also made in other sections of the rulemaking.

Plans of operations—This section drew several comments requesting language be added to the section to make it clear that the approval of a plan of operations will be arrived at through consultation between the authorized officer and the operator and not just handed down by the authorized officer. A complete reading of the rulemaking makes it clear that a consultation process will be used in arriving at an approved plan of operations. The finalization of any plan will be arrived at after discussion between the parties, with the authorized officer having the final responsibility as to the contents of any plan.

A second set of comments on this section wanted it amended to require that the operator submit a plan of reclamation with a plan of operations. This change was not made because small operators do not have the capability of developing a reclamation plan and to require one would place an unreasonable burden on them. The section does allow the submission of a plan of reclamation with a plan of operations if the operator wishes to submit one. Other sections of the rulemaking require that a plan of reclamation be a part of any approved plan of operations and in those

instances where the operator does not submit a plan of reclamation, the authorized officer will develop one in cooperation with the operator. In most instances, especially at the beginning of the program initiated by this rulemaking, plans of reclamation will not be submitted, but will be developed by the authorized officer.

When required—The opening paragraph of this section has been amended to delete the phrase "potential or identified wilderness study areas" and replaced with the phrase "lands under wilderness study". This change is consistent with the same change made and discussed in earlier sections. In addition to the comments requesting the deletion of the potential wilderness areas, other comments discussed the threshold concept used in the rulemaking to determine when a plan of operations is required. Some comments suggested that the threshold should be set at a numerically identifiable figure, such as 5,000 tons of ore per year. Others suggested that the threshold concept was inappropriate because no mining operations should be permitted in an area under wilderness review that caused any impairment. In this same vein, one comment felt it inappropriate to have a section in the rulemaking for allowance of plans of operations on the basis that they could not be approved because any activity that caused impairment could not be approved. The threshold concept has been retained because those activities permitted by the threshold should not impair those plans of operations that are consistent with the provisions of this rulemaking will be approved.

Several minor changes in this section of the rulemaking were suggested by the comments. The reference to "roads" has been deleted and replaced with "means of access" as requested by comments. Another change made in response to comments was a further definition of what is meant by cutting of trees. To clarify what is meant, words have been added to indicate that the trees must be 2 or more inches in diameter at their base in order to require a plan of operations. There were some comments desiring clarification of the paragraph dealing with tracked or mechanized vehicles. No change was made in this paragraph because it covers the circumstances adequately.

Another concern raised in the comments was that the period for placing of a structure on a mining claim without a plan should be extended to 60 or more days. The figure was left at 30 days because the placing of a structure on a mining claim is an impact that affects the wilderness characteristics of an area and tight control should be kept on that activity. A few comments felt that the use of explosives was a natural part of mining and should not be covered by a plan of operations. This provision has been kept because the use of explosives can have serious impacts on an area and its use must be in accordance with appropriate safeguards. Finally, language has been added to the section requiring a plan of operations when an operation causes a change in a water course. This amendment was adopted as a result of several comments on this subject.

When not required—This section of the proposed rulemaking drew only a few comments. Generally, the comments were divided into two groups. The first group felt that no activity should be allowed in an area under wilderness review if it could cause adverse impacts and some, if not all of the things allowed by this section could cause impacts and should be covered by a plan of operations if allowed at all. The second group felt that the items covered by the section should be permitted but that the activities that would be allowed without a plan of operations should be enlarged. Some specific comments raised were: (1) The section appears to allow airborne drilling operations without the filing of a plan of operations. This section of the interim final rulemaking would permit airborne drilling operations. (2) There is no limit on the amount of samples that can be taken and some limit should be included in the rulemaking. No limit has been imposed but the use of tracked or mechanized equipment does require the filing of a plan. The amount of samples or specimens that can be removed under the conditions imposed by the rulemaking is very limited and should not cause impacts that impair the areas wilderness characteristics. Controlling such activity would be nearly impossible. (3) Another comment suggested that open areas should be defined. Open areas or open trails are defined in 43 CFR Part 8364 and those definitions apply to this rulemaking. No changes were made in this section of the interim final rulemaking.

Operations existing on October 21, 1976—This section was not amended to insert the words "or before" to clarify that "on October 21, 1976," means "on or before" that date as was suggested in several comments. The basis for not adopting the change has been explained earlier in the preamble. The section received several comments in addition to the ones discussed above. Some of the comments felt that the interpretation of what constituted operations "in the same manner and degree" could be so rigorous as to effectively destroy any ongoing mining operation. This interpretation is not what is intended. If the rulemaking is read in its entirety, and in combination with the Solicitor's Opinion on Wilderness (86 I.D. 89 (1979)), it is clear the rulemaking will not terminate mining operations that continue in the same manner and degree and do not cause undue and unnecessary degradation of the lands. On the other hand, other comments felt that this provision should not be made a part of the interim final rulemaking. These comments felt that any operation in a wilderness area should be required to file a plan of operations. While it is true that the rulemaking does not require the filing of a plan of operations for operations existing on October 21, 1976, close observation will be maintained on those operations to be sure that they do not exceed manner and degree and do not cause undue or unnecessary degradation. If, in the judgment of the authorized officer, any operation covered by this section exceeds manner and degree or causes undue and unnecessary degradation, that operation will be required to file a plan of operations. At the same time, the public can keep the authorized officer informed of any changes in the operation it observes that exceed the limits of this section. This close observation should keep any existing operation within the limits imposed by this section. This provision is under continuing study and will be changed if it is determined necessary.

Contents of plan of operations—The principal issue raised in the few comments received on this section was the lack of detail as to what should be contained in a plan of operations, with special emphasis on the lack of requirement for a plan of reclamation. As pointed out earlier in this preamble, the decision has been made to not require an operator to file a plan of reclamation as part of a plan of operations. However, mitigating measures for reclamation are required before a plan of operations can be approved. One comment did raise the point that there was no place of filing for a plan of operations set out in the proposed rulemaking. A review of the proposed rulemaking confirmed this comment and this section has been amended by the insertion of a new paragraph (a) setting out the place where a plan of operations is to be filed.

Plan approval—These sections of the proposed rulemaking received a large number of comments, with the principal concern being the provision that

allowed an operator to proceed with a mining operation if the operator had not been notified of the need for an extension of time to review the plan, as provided in the rulemaking. This concern was raised because some comments felt that this provision would allow impairing activities to begin and continue until discovered and stopped by the authorized officer. On the other side of the question, some comments argue that the failure to act within a timely manner should give the operator more assurance than that he could proceed at his own risk. The only change made in the section allowing an operator to proceed if he has not been notified of the need for additional time for review of the plan of operations is the insertion of language that removes any doubt that the option to proceed on the part of the operator cannot be construed as an approval of the plan of operations and those operations can be stopped if they are causing impairment or unnecessary damage.

Some of the comments pointed out that the proposed rulemaking did not make any special provision for those mining claims with valid existing rights on or before October 21, 1976. In recognition of the issue raised in the comments, the interim final rulemaking has been amended to include language that specifically covers approval action on mining claims with valid existing rights. Comments also raised questions about the fact that a delay in the approval of a plan of operations could delay required assessment work. The interim final rulemaking allows the authorized officer to approve activities consistent with existing State law if such activity does not impair the wilderness suitability of the area. This section will be interpreted in a manner consistent with like provisions of the interim management policy.

A couple of comments raised the question of whether a plan of operation should be subject to the provisions of the Endangered Species Act, as it is to the provisions of the National Environmental Policy Act and the National Historic Preservation Act. The interim final rulemaking has been changed to make this section subject to the provisions of the Endangered Species Act and compliance with the requirements of section 7 of that Act before a plan of operations is approved.

Among other changes in this section, a provision has been included that will allow the authorized officer to notify the operator that his operations are not covered by the requirement for a plan of operations and that the operation can proceed.

Finally, several of the comments suggested that the time frames for approval of a plan of operations were too short. We have again examined the time frames and the anticipated work load that will result from the issuance of this interim final rulemaking and have decided that the time frames can be met. It would be unfair to the mining industry to place interminable delays on them while other management work is being accomplished. The time frames will assure the mining industry of speedy action while also setting a time for review that is reasonable and can be met. Those operators who have submitted a plan and after 30 days has elapsed, wish to take the risk and begin operations without an approved plan of operations can proceed with the real possibility that their operations will be terminated if they are found to be impairing wilderness characteristics of the area.

Modification of plan—The major complaint raised by the comments on this section deals with the steps that must be followed if an operator refuses to accept a modification of a plan of operations that has been approved by the authorized officer and the time required to go through the modification process. The provisions set forth in this section are based on determinations that an approved plan of operations should give the operator assurance that he can proceed with his mining operation. Once a plan is approved, the operator should be able to go forward with his operation, making necessary investment of time and money, without having that operation stopped without a complete examination of the process followed in approving the plan. The section does give the State Director needed authority to stop operations that might be causing impairment or undue or unnecessary degradation of the land under wilderness review. The section represents a fair and equitable handling of a very difficult problem and has not been changed in the interim final rulemaking.

Another change in this section was inclusion of language consistent with the Federal Land Policy and Management Act that authorizes the continuance of regulation of mining claims patented in the California Desert Conservation area.

Existing operations—Nearly all of the comments received on this section felt that those mining operations that were commenced after October 21, 1976, and continued in operation on the effective date of this interim final rulemaking should be given a period in which to file a plan of operations and have their operations meet the requirements of this rulemaking. There was some difference as to the length of time for that period of grace, with some wanting the initial 60 day period lengthened and others wanting the extension either eliminated or shortened to a period of from 30 to 60 days. Some of the comments wanted express language in the rulemaking that would require the authorized officer to stop a mining operation if it was found to be causing impairment or undue or unnecessary degradation of lands under wilderness review. The language of the section allows the operation to continue according to the submitted plan of operations unless the operator is notified otherwise. The operator would be notified of changes that must be made if the authorized officer finds the operation to be causing undue or unnecessary degradation of the lands under wilderness review, or to make changes to end the offending actions. No substantive changes have been made in this section of the interim final rulemaking.

Bond requirements—The issue raised by many of the comments on this section was the fact that the bonding requirement was discretionary with the authorized officer. The comments expressed the view that bonding should be mandatory for mining operations located on lands under wilderness review. The interim final rulemaking continues the policy of discretionary bonding for mining operations located on lands under wilderness review. However, the authorized officer will be directed by policy guidance to carefully exercise his discretion on operations located on lands under wilderness review and to require bonding in those instances where the operator has not exercised good reclamation standards in the past. To require mandatory bonding could put most small miners out of business because they cannot obtain bonds.

Another area of concern was the setting of the bond amount. Many comments wanted language in the rulemaking requiring the authorized officer to set the amount of the bond at the full cost of reclamation of the area covered by the mining operation. This change has not been made because it would place an impossible burden on the small miner. The requiring of a bond and the attendant risk that the authorized officer may require forfeiture of the bond because the operator has not performed in accordance with the provisions of the plan of operations is sufficient deterrent. Requiring the forfeiture of a bond by the authorized officer would make it virtually impossible for the operator, to whom

that bond was issued, to ever obtain another bond and, without such a bond, he could not operate under this interim final rulemaking. Further, if a bonding requirement is included in any future rulemaking on surface management of mining claims on public lands, the forfeiture would have the effect of making it impossible for him to operate under that rulemaking if he were required to furnish a bond.

There was a difference between the comments as to the period a bond may be continued after replanting to assure revegetation. Some comments wanted the period extended while others wanted it shortened. After careful consideration, this section has been deleted because it is no longer relevant in that the rulemaking has new time frames for reclamation completion.

Environmental assessment—While most of the comments supported the need for environmental protection and attendant environmental assessment, some raised questions about the Bureau of Land Management's ability to meet the workload created by such assessments and the delay that would result from having to do the assessments. The time frames set in the interim final rulemaking have been discussed and can be met by the Bureau of Land Management. The delay imposed by the rulemaking will not be excessive and will not unduly interfere with the plans of operations. Every effort will be made to work with the mining community and the public to protect wilderness suitability with the least possible impact on the mining industry. Only minor editorial changes have been made in this section of the interim final rulemaking.

Requirements for environmental protection—Only a few comments were received on this section of the proposed rulemaking. Some of the comments made the point that all of the requirements set forth in this section were required by other laws and regulations and repeating them in this rulemaking was not necessary. The provisions are kept in the interim final rulemaking to make it clear to operators that they come under these provisions and that they are required to meet the listed standards. As some of the comments pointed out, there is an additional cost imposed upon the operator to comply with the environmental protection provisions, but those costs are offset by the benefits afforded the public from an enhanced environment.

Noncompliance—The comments on this section of the proposed rulemaking suggested stronger action be provided against an operator that is not in compliance with a plan of operations than the stopping of operations by court action. The first option available to the authorized officer if he finds an operator in noncompliance is to point out the noncompliance and attempt to get the operator to come into compliance. In most instances, the operator will cooperate. If the operator refuses to cooperate, the authorized officer can proceed with the steps provided for in the rulemaking with a final step being court action to stop the operations. The authorized officer can also check to see if the operator is in violation of other parts of the Bureau of Land Management regulations that provide criminal sanctions and enforce those against the operator. Further, if the conditions of the bond are being violated, the authorized officer can require forfeiture of the bond.

The Department of the Interior believes that mining operators are law abiding members of the public and will cooperate with the authorized officer in protecting the public lands and the wilderness values of those lands. If it is found that the mining community is not cooperative in this matter, then the question of imposition of criminal sanctions will be re-examined.

Access—Several of the comments on this section objected to the requirement that the access granted under the interim final rulemaking be non-exclusive access. The access that will be granted to a mining claim across public lands will allow public use unless there are circumstances present that would make it hazardous to the public to have joint use. In any case, the access route will be open to the use of other miners and any other users with a need for access to the area. Some comments expressed the view that the rulemaking could deny access to a valid mining claim located under the Mining Law of 1872. The rulemaking does not deny access nor is it intended to deny access, but it does recognize the authority of the Secretary of the Interior to impose conditions on that access. Those considerations will provide the greatest possible protection to the public lands and their resources, particularly the wilderness values, consistent with the right of access granted the mining claim locator by the Mining Law of 1872.

In response to the concern of some of the comments about roads being the only means of access contemplated by the rulemaking, the references to roads have been removed from the rulemaking and replaced with the words "means of access". It is clear that access can be granted by means other than roads and the rulemaking covers that possibility.

Finally, a few of the comments were concerned that the route of access to a mining claim would be established by the authorized officer without any reference to the operator and the impact the selected access route might have on the operations. The authorized officer will select the access route in consultation with the operator, after discussion of the operator's needs and his ability to meet the requirements imposed by the authorized officer. There is no intention to place conditions on a route of access that make it impossible for the operator to carry out operations that are approved under a plan of operations.

However, the final decision as to the means of access will be with the authorized officer who has the responsibility of protecting the public lands and their resources.

Multiple-use conflicts—The few comments on this section expressed the view that use by the mining operator should be given more weight in resolving conflicts than other uses of the public lands in the area of the mining claim. The comments wanted this to be a requirement of the rulemaking. This change was not adopted. The authorized officer can balance the conflicts, giving appropriate weight to each one, including the valid existing rights that might exist with a mining claim, and attempt to work out any differences between users. It is recognized that this will not be possible in every instance, but the authorized officer needs the authority given him by the rulemaking to try to resolve any differences.

Inspection—This section drew a few comments that wanted to be certain that the inspection would be conducted at reasonable times, during business hours, and in accordance with acceptable regulatory practice. Generally, inspections will be conducted during business hours, but where there are reports of conditions that need immediate inspection, the inspection might occur at a time other than regular business hours. There is no intention to sneak up on the mining operator, but to have Departmental personnel carry out inspections of the operations whenever they are in the area. If, however, there are reports of activity that is causing damage, the report will be checked out and an inspection may occur.

Notice of suspensions of operations—One comment pointed out that an operator might not know exactly when his operations have been suspended because of any number of circumstances. The comment pointed out that an operator might close for a day or two to get supplies and find that the lack of finances or other reasons, including sickness, might delay his returning to work for 30 days or more

without any intention on the part of the operator to suspend his operations. The situation discussed in the comment is recognized, but if an operator has been away from his operation for 30 days or more, he should know what the likelihood of his being able to resume operations is and act accordingly. The provision allows enough latitude and has not been changed. Other comments on this section questioned the need to post the claimant's name and address on the operation. Posting will allow members of the public to notify the operator if they see something amiss and want to report it. It will also allow quicker notice to the operator by Department personnel because it will eliminate the necessity to check with their office before being able to notify the operator of any problems on the claim.

Cessation of operations—The comments on this section criticized the word "clean-up" as it is used in the section. The main thrust of the comments was that the word was not definitive enough and should be changed. The word has been deleted and the more precise word "reclaim" substituted for it. The requirement to reclaim is consistent with the provisions of the interim final rulemaking and is more easily understood since reclamation is defined in the rulemaking.

The other area of concern expressed in the comments was a question of whether the Secretary of the Interior had the authority to require the reclamation of an abandoned site. The authority given the Secretary of the Interior to protect the wilderness characteristics of lands under wilderness review extends to reclamation of those lands if operations are permitted on them. It is true that the reclamation of a mining claim may obscure evidence of mineralization, but this loss is off-set by the return of the lands to their original wilderness status.

Appeals—The comments on this section wanted the rulemaking to allow any person affected rather than only an affected operator to have the right to appeal a decision. The interim final rulemaking has been amended to authorize an appeal by an affected party. Any individual that is adversely affected by action on a mining plan can appeal that decision. This change is in keeping with the requirements for public participation and right to appeal provided in the Federal Land Policy and Management Act.

A few comments questioned the expertise of the Interior Board of Land Appeals to handle the appeals created by this rulemaking. The Board of Land Appeals is the board created by the Department of the Interior to handle appeals of this type and it has shown its ability to resolve the many appeals that come before it. Some concern was expressed in the comments about the fact that lands under the jurisdiction of an agency other than the Department of the Interior were discussed in a rulemaking that is applicable to the Bureau of Land Management, an agency of the Department of the Interior. This provision has been deleted because the Bureau of Land Management is involved only in the study of lands under its jurisdiction and the provision is not applicable.

Public Availability of Information—The comments on this section wanted the rulemaking to provide greater confidentiality for information that an operator declares to be confidential. The provisions of this section follow the requirements of the Freedom of Information Act and no changes have been made in the section.

Editorial changes and corrections have been made as necessary.

The principal author of this interim final rulemaking is Robert C. Bruce of the Office of Legislation and Regulatory Management, Bureau of Land Management, assisted by the Branch of Mineral Resources, Bureau of Land Management, and Mr. Kenneth Lee of the Office of the Solicitor, Department of the Interior.

This interim final rulemaking is being considered as part of the Environmental Impact Statement and the regulatory analysis that is being prepared in connection with the rulemaking on surface management of hard rock mining on the public lands (43 CFR 3809).

Under the authority of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), Part 3800, Group 3800, Subchapter C, Chapter II, Title 43 of the Code of Federal Regualtions is amended by adding subpart 3802 as follows.

James W. Curlin,
Acting Assistant Secretary of the Interior.
February 27, 1980.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

Subpart 3802—Exploration and Mining—Wilderness Review Program

Sec.

Authority: 43 U.S.C. 1782.

Subpart 3802—Exploration and Mining, Wilderness Review Program

§ 3802.0–1 Purpose.

The purpose of this subpart is to establish procedures to prevent impairment of the suitability of lands under wilderness review for inclusion in the wilderness system and to prevent unnecessary or undue degradation by activities authorized by the United States Mining Laws and provide for environmental protection of the public lands and resources.

§ 3802.0–2 Objectives.

The objectives of this subpart are to:

(a) allow mining claim location, prospecting, and mining operations in lands under wilderness review pursuant to the United States Mining Laws, but only in a manner that will not impair the suitability of an area for inclusion in the wilderness system unless otherwise permitted by law; and

(b) assure management programs that reflect consistency between the United States Mining Laws, and other appropriate statutes.

§ 3802.0–3 Authority.

These regulations are issued under the authority of sections 302 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782).

§ 3802.0–5 Definitions.

As used in this subpart, the term:

(a) "Reclamation", which shall be commenced, conducted and completed as soon after disturbance as feasible without undue physical interference with mining operations, means:

(1) Reshaping of the lands disturbed and affected by mining operations to the approximate original contour or to an

appropriate contour considering the surrounding topography as determined by the authorized officer;

(2) Restoring such reshaped lands by replacement of topsoil; and

(3) Revegetating the lands by using species previously occurring in the area to provide a vegetative cover at least to the point where natural succession is occuring.

(b) "Environment" means surface and subsurface resources both tangible and intangible, including air, water, mineral, scenic, cultural, paleontological, vegetative, soil, wildlife, fish and wilderness values.

(c) "Wilderness Study Area" means a roadless area of 5,000 acres or more or roadless islands which have been found through the Bureau of Land Management wilderness inventory process to have wilderness characteristics (thus having the potential of being included in the National Wilderness Preservation System), and which will be subjected to intensive analysis through the Bureau's planning system, and through public review to determine wilderness suitability, and is not yet the subject of a Congressional decision regarding its designation as wilderness.

(d) "Impairment of suitability for inclusion in the Wilderness System" means taking actions that cause impacts, that cannot be reclaimed to the point of being substantially unnoticeable in the area as a whole by the time the Secretary is scheduled to make a recommendation to the President on the suitability of a wilderness study area for inclusion in the National Wilderness Preservation System or have degraded wilderness values so far, compared with the area's values for other purposes, as to significantly constrain the Secretary's recommendation with respect to the area's suitability for preservation as wilderness.

(e) "Mining claim" means any unpatented mining claim, millsite, or tunnel site authorized by the United States mining laws.

(f) "Mining operations" means all functions, work, facilities, and activities in connection with the prospecting, development, extraction, and processing of mineral deposits and all uses reasonably incident thereto including the construction and maintenance of means of access to and across lands subject to these regulations, whether the operations take place on or off the claim.

(g) "Operator" means a person conducting or proposing to conduct mining operations.

(h) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(i) "Wilderness inventory" means an evaluation conducted under BLM wilderness inventory procedures which results in a written description and map showing those lands that meet the wilderness criteria established under section 603(a) of the Federal Land Policy and Management Act.

(j) "Manner and degree" means that existing operations will be defined geographically by the area of active development and the logical adjacent (not necessarily contiguous) continuation of the existing activity, and not necessarily by the boundary of a particular, claim or lease, and in some cases a change in the kind of activity if the impacts from the continuation and change of activity are not of a significantly different kind than the existing impacts. However, the significant measure for these activities is still the impact they are having on the wilderness potential of an area. It is the actual use of the area, and not the existence of an entitlement for use, which is the controlling factor. In other words, an existing activity, even if impairing, may continue to be expanded in an area or progress to the next stage of development so long as the additional impacts are not significantly different from those caused by the existing activity. In determining the manner and degree of existing operations, a rule of reason will be employed.

(k) "Valid existing right" means a valid discovery had been made on a mining claim on October 21, 1976, and continues to be valid at the time of exercise.

(l) "Undue and unnecessary degradation" means impacts greater than those that would normally be expected from an activity being accomplished in compliance with current standards and regulations and based on sound practices, including use of the best reasonably available technology.

(m) "Substantially unnoticeable" means something that either is so insignificant as to be only a very minor feature of the overall area or is not distinctly recognizable by the average visitor as being manmade or man-caused because of age, weathering or biological change.

§ 3802.0-6 Policy.

Under the 1872 Mining Law (30 U.S.C. 22 *et seq.*), a person has a statutory right consistent with other laws and Departmental regulations, to go upon the open (unappropriated and unreserved) public lands for the purpose of mineral prospecting, exploration, development, and extraction. The Federal Land Policy and management Act requires the Secretary to regulate mining operations in lands under wilderness review to prevent impairment of the suitability of these areas for inclusion in the wilderness system. However, mining operations occurring in the same manner and degree that were being conducted on October 21, 1976, may continue, even if they are determined to be impairing. Mining activities not exceeding manner and degree shall be regulated only to prevent undue and unnecessary degradation of public lands.

§ 3802.0-7 Scope.

(a) These regulations apply to mining operations conducted under the United States mining laws, as they affect the resources and environment or wilderness suitability of lands under wilderness review.

(b) These regulations apply to means of access across public land for the purpose of conducting operations under the United States mining laws.

§ 3802.1 Plan of operations.

An approved plan shall include appropriate environmental protection and reclamation measures selected by the authorized officer that shall be carried out by the operator. An operator may prepare and submit with a plan measures for the reclamation of the affected area.

§ 3802.1-1 When required.

An approved plan of operations is required for operations within lands under wilderness review prior to commencing:

(a) Any mining operations which involve construction of means of access, including bridges, landing areas for aircraft, or improving or maintaining such access facilities in a way that alters the alignment, width, gradient size, or character of such facilities;

(b) Any mining operations which destroy trees 2 or more inches in diameter at the base;

(c) Mining operations using tracked vehicles or mechanized earth moving equipment, such as bulldozers or backhoes;

(d) Any operations using motorized vehicles over other than "open use areas and trails" as defined in Subpart 6292 of this title, *off-road vehicles,* unless the use of a motorized vehicle can be covered by a temporory use permit issued under Subpart 8372 of this title;

(e) The construction or placing of any mobile, portable or fixed structure on public land for more than 30 days;

(f) On mining operations requiring the use of explosives; or

(g) Any operation which may cause changes in a water course.

§ 3802.1-2 When not required.

A plan of operations under this subpart is not required for—

(a) Searching for and occasionally removing mineral samples or specimens;

(b) Operating motorized vehicles over "open use areas and trails" as defined in 43 CFR Part 8340 so long as the vehicles conform to the operating regulations and vehicle standards contained in that subpart;

(c) Maintaining or making minor improvements of existing access routes, bridges, landing areas for aircraft, or other facilities for access where such improvements or maintenance shall not alter the alignment, width, gradient, size or character of such facilities; or

(d) Making geological, radiometric, geochemical, geophysical or other tests and measurements using instruments, devices, or drilling equipment which are transported without using mechanized earth moving equipment or tracked vehicles.

§ 3802.1-3 Operations existing on October 21, 1976.

A plan of operations shall not be required for operations that were being conducted on October 21, 1976, unless the operation is undergoing changes that exceed the manner and degree of operations on October 21, 1976. However, if the authorized officer determines that operations in the same manner and degree are causing undue or unnecessary degradation of lands and resources or adverse environmental effects, an approved plan containing protective measures may be required. Any changes planned in an existing operation that would result in operations exceeding the present manner and degree shall be delayed until the plan is processed under provisions of § 3802.1-5 of this title.

§ 3802.1-4 Contents of plan of operations.

(a) A plan of operations shall be filed in the District Office of the Bureau of Land Management in which the claim is located.

(b) No special form is required to file a plan of operations.

(c) The plan of operations shall include—

(1) The name and mailing address of both the person for whom the operation will be conducted, and the person who will be in charge of the operation and should be contacted concerning the reclamation or other aspects of the operation (any change in the mailing address shall be reported promptly to the authorized officer);

(2) A map, preferably a topographic map, or sketch showing present road, bridge or aircraft landing area locations, proposed road, bridge or aircraft landing area locations, and size of areas where surface resources will be disturbed;

(3) Information sufficient to describe either the entire operation proposed or reasonably foreseeable operations and how they would be conducted, including the nature and location of proposed structures and facilities;

(4) The type and condition of existing and proposed means of access or aircraft landing areas, the means of transportation used or to be used, and the estimated period during which the proposed activity will take place;

(5) If and when applicable, the serial number assigned to the mining claim, mill or tunnel site filed pursuant to Subpart 3833 of this title

§ 3802.1-5 Plan approval.

(a) The authorized officer shall promptly aknowledge the receipt of a plan of operations and within 30 days of receipt of the plan act on the plan of operations to determine its acceptability.

(b) The authorized officer shall review the plan of operations to determine if the operations are impairing the suitability of the area for preservation as wilderness. Pending approval of the plan of operations, mining operations may continue in a manner that minimizes environmental impacts as prescribed in § 3802.3 of this title. After completing the review of the plan of operations, the authorized officer shall give the operator written notice that: (1) The plan is approved subject to measures that will prevent the impairment of the suitability of the area for preservation as wilderness as determined by the authorized officer; (2) Plans covering operations on a claim with a valid existing right are approved subject to measures that will prevent undue and unnecessary degradation of the area; or (3) the anticipated impacts of the mining operations are such that all or part of further operations will impair the suitability of the area for preservation as wilderness, the plan is disapproved and continuance of such operations is not allowed.

(c) Upon receipt of a plan of operations for mining activities commencing after the effective date of these regulations, the authorized officer may notify the operator, in writing, that:

(1) In an area of lands under wilderness review where an inventory has not been completed, an operator may agree to operate under a plan of operations that includes terms and conditions that would be applicable in a wilderness study area. Without an agreement to this effect, no action may be taken on the plan until a wilderness inventory is completed; or

(2) The area has been inventoried and a final decision has been issued and become effective that the area does not contain wilderness characteristics, and that the mining operations are no longer subject to these regulations; or

(3) The anticipated impacts are such that all or part of the proposed mining operations will impair the suitability of the area for preservation as wilderness, and therefore, the proposed mining operation cannot be allowed.

(d) In addition to paragraphs (a) through (c) of this section, the following general plan approval procedures may also apply. The authorized officer may notify the operator, in writing, that:

(1) The plan of operations is unacceptable and the reasons therefore; or

(2) Modification of the plan of operations is necessary to meet the requirements of these regulations;

(3) The plan of operations is being reviewed, but that more time, not to exceed an additional 60 days, is necessary to complete such review, setting forth the reasons why additional time is needed except in those instances where it is determined that an Environmental Impact Statement, compliance with section 106 of the National Historic Preservation Act (NHPA) or section 7 of the Endangered Species Act is needed. Periods during which the area of operations is inaccessible for inspection due to climatic conditions, fire hazards or other physical conditions or legal impediments, shall not be included when counting the 60 calendar day period; or

(4) The proposed operations do not require a plan of operations.

(e) If the authorized officer does not notify the operator of any action on the plan of operations within the 30-day period, or the 60-day extension, or notify the operator of the need for an Environmental Impact Statement or compliance with section 106 of NHPA or section 7 of the Endangered Species Act, operations under the plan may begin. The option to begin operations under this section does not constitute approval of a plan of operations. However, if the authorized officer at a later date finds that operations under the plan are impairing wilderness suitability, the authorized officer shall notify the operator that the operations are not in compliance with these regulations and what changes are needed, and shall

require the operator to submit a modified plan of operations, within a time specified in the notice. If the operator is notified of the need for an Environmental Impact Statement, the plan of operations shall not be approved before 30 days after a final statement is prepared and filed with the Environmental Protection Agency. If the is operator notified of the need for compliance with section 106 of the NHPA or section 7 of the Endangered Species Act, the plan of operations shall not be approved until the compliance responsibilities of the Bureau of Land Management are satisfied.

(f) If cultural resource properties listed on or eligible for listing on the National Register of Historic Places are within the area of operations, no operations which would affect those resources shall be approved until compliance with section 106 of the National Historic Preservation Act is accomplished. The operator is not required to do or to pay for an inventory. The responsibility and cost of the cultural resource mitigation, except as provided in § 3802.3–2(f) of this title, included in an approved plan of operation shall be the operator's.

(g) Pending final approval of the plan of operations, the authorized officer may approve any operations that may be necessary for timely compliance with requirements of Federal and State laws. Such operations shall be conducted so as to prevent impairment of wilderness suitability and to minimize environmental impacts as prescribed by the authorized officer in accordance with the standards contained in § 3802.3 of this title.

§ 3802.1–6 Modification of plan.

(a) If the development of a plan for an entire operation is not possible, the operator shall file an initial plan setting forth this proposed operation to the degree reasonably foreseeable at that time. Thereafter, the operator shall file a supplemental plan or plans prior to undertaking any operations not covered by the initial plan.

(b) At any time during operations under an approved plan of operations, the authorized officer or the operator may initiate a modification of the plan detailing any necessary changes that were unforeseen at the time of filing of the plan of operations. If the operator does not furnish a proposed modification within a time considered reasonable by the authorized officer, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the supporting facts and reasons for his recommendations. In acting upon such recommendation, except in the case of a modification under § 3802.1–5(e) of this title, the State Director shall determine (1) whether all reasonable measures were taken by the authorized officer to predict the environmental impacts of the proposed operations; (2) whether the disturbance is or may become of such significance as to require modification of the plan of operations in order to meet the requirement for environmental protection specified in § 3802.3–2 of this title, and (3) whether the disturbance can be minimized using reasonable means. Lacking such a determination by the State Director, an operator is not required to submit a proposed modification of an approved plan of operations. Operations may continue in accordance with the approved plan of operations until a modified plan is approved, unless the State Director determines that the operations are causing impairment or unnecessary or undue degradation to surface resources. He shall advise the operator of those measures needed to avoid such damage and the operator shall immediately take all necessary steps to implement measures recommended by the State Director.

(c) A supplemental plan of operations or a modification of an approved plan of operations shall be approved by the authorized officer in the same manner as the initial plan of operations.

§ 3802.1–7 Existing operations.

(a) Persons conducting mining operations on the effective date of these regulations, who would be required to submit a plan of operations under § 3802.1–1 of this title, may continue operations but shall, within 60 days after the effective date of these regulations, submit a plan of operations. Upon a showing of good cause, the authorized officer shall grant an extension of time to submit a plan of operations not to exceed an additional 180 days.

(b) Operations may continue according to the submitted plan of operations during its review unless the operator is notified otherwise by the authorized officer.

(c) Upon approval of a plan of operations, mining operations shall be conducted in accordance with the approved plan.

§ 3802.2 Bond requirements.

(a) Any operator who conducts mining operations under an approved plan of operations shall, if required to do so by the authorized officer, furnish a bond in an amount determined by the authorized officer. The authorized officer may determine not to require a bond where mining operations would cause nominal environmental damage, or the operator has an excellent past record for reclamation. In determining the amount of the bond, the authorized officer shall consider the estimated cost of stabilizing and reclaiming all areas disturbed by the operations consistent with § 3802.3–2(h) of this title.

(b) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a face and market value at the time of deposit of not less than the required dollar amount of the bond.

(c) In place of the individual bond on each separate operation, a blanket bond covering hardrock mining operations may be furnished, at the option of the operator, if the terms and conditions as determined by the authorized officer are sufficient to comply with these regulations.

(d) In the event that an approved plan of operations is modified in accordance with § 3802.1–5 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, shall require that the amount of bond be adjusted to conform to the plan of operations, as modified.

(e) When a mining claim is patented, except for the California Desert Conservation Area, the authorized officer shall release the operator from that portion of the performance bond and plan of operations which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond and plan of operations (covering approved means of access outside the boundaries of the mining claim) when the operator has either completed reclamation in accordance with paragraph (f) of this section or those requirements are waived by the authorized officer.

(f) When all or any portion of the reclamation has been completed in accordance with paragraph (h) of § 3802.3–2 of this title, the operator shall notify the authorized officer who shall promptly make a joint inspection with the operator. The authorized officer shall then notify the operator whether the performance under the plan of operations is accepted. When the authorized officer has accepted as completed any portion of the reclamation, he shall reduce

proportionally the amount of bond with respect to the remaining reclamation.

§ 3802.3 Environmental protection.

§ 3802.3-1 Environmental assessment.

(a) When a plan of operations or significant modification is filed, the authorized officer shall make an environmental assessment to identify the impacts of the proposed mining operations upon the environment and to determine whether the proposed activity will impair the suitability of the area for preservation as wilderness or cause unnecessary and undue degradation and whether an environmental impact statement is required.

(b) Following completion of the environmental assessment or the environmental impact statement, the authorized officer shall develop measures deemed necessary for inclusion in the plan of operations that will prevent impairment of wilderness suitability and undue or unnecessary degradation of land and resources.

(c) If as a result of the environment assessment, the authorized officer determines that there is substantial public interest in the proposed mining operations, the operator may be notified that an additional period of time is required to consider public comments. The period shall not exceed the additional 60 days provided for approval of a plan in § 3802.1-4 of this title except as provided for cases requiring an environmental impact statement, a cultural resource inventory or section 7 of the Endangered Species Act.

§ 3802.3-2 Requirements for environmental protection.

(a) *Air Quality.* The operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act (42 U.S.C. 1857 et seq.).

(b) *Water Quality.* The operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.).

(c) *Solid Wastes.* The operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste shall either be removed from the affected lands or disposed or treated to minimize, so far as is practicable, its impact on the environment and the surface resources. All tailings, waste rock, trash, deleterious materials of substances and other waste produced by operations shall be deployed, arranged, disposed or treated to minimize adverse impact upon the environment, surface and subsurface resources.

(d) *Visual Resources.* The operator shall, to the extent practicable, harmonize operations with the visual resources, identified by the authorized officer, through such measures as the design, location of operating facilities and improvements to blend with the landscape.

(e) *Fisheries, Wildlife and Plant Habitat.* The operator shall take such action as may be needed to minimize or prevent adverse impact upon plants, fish, and wildlife, including threatened or endangered species, and their habitat which may be affected by the operations.

(f) *Cultural and Paleontological Resources.* (1) The operator shall not knowingly disturb, alter, injure, destroy or take any scientifically important paleontological remains or any historical, archaeological, or cultural district, site, structure, building or object.

(2) The operator shall immediately bring to the attention of the authorized officer any such cultural and/or paleontological resources that might be altered or destroyed by his operation, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his attention, and determine within 10 working days what action shall be taken with respect to such discoveries.

(3) The responsibility and the cost of investigations and salvage of such values discovered during approved operations shall be the Federal Goverment's.

(g) *Access Routes.* No new access routes that would cause more than temporary impact and therefore would impair wilderness suitability shall be constructed in a wilderness study area. Temporary access routes that are constructed by the operator shall be constructed and maintained to assure adequate drainage and to control or prevent damage to soil, water, and other resource values. Unless otherwise approved by the authorized officer, roads no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts shall be removed; cross drains, dips, or water bars shall be constructed, and the road surface shall be shaped to as near a natural contour as practicable, be stablized and revegetated as required in the plan of operations.

(h) *Reclamation.* (1) The operator shall perform reclamation of those lands disturbed or affected by the mining operation conducted by the operator under an approved plan of operations containing reclamation measures stipulated by the authorized officer as contemporaneously as feasible with operations. The disturbance or effect on mined land shall not include that caused by separate operations in areas abandoned before the effective date of these regulations.

(2) An operator may propose and submit with his plan of operations measures for reclamation of the affected area.

(i) *Protection of survey monuments.* The operator shall, to the extent practicable and consistent with the operation, protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against destruction, obliteration, or damage from the approved operations. If, in the course of operations, any monuments, corners or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe in writing the requirement for the restoration or reestablishment of monuments, corners, bearing trees, and line trees.

§ 3802.4 General provisions.

§ 3802.4-1 Noncompliance.

(a) An operator who conducts mining operations undertaken either without an approved plan of operations or without taking actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(b) Whenever the authorized officer determines that an operator is failing or has failed to comply with the requirements of an approved plan of operations, or with the provisions of these regulations and that noncompliance is causing impairment of wilderness suitability or unnecessary and undue degradation of the resources of the lands involved, the authorized officer shall serve a notice of noncompliance upon the operator by delivery in person to the operator or the operator's authorized agent, or by certified mail addressed to the operator's last known address.

(c) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of the plan of operations of the provisions of applicable regulations, and shall specify the actions which are in violation of the plan or regulations and the actions which shall be taken to correct the noncompliance and the time

limits, not to exceed 30 days, within which corrective action shall be taken.

§ 3802.4-2 Access.

(a) An operator is entitled to non-exclusive access to his mining operations consistent with provisions of the United States mining laws and Departmental regulations.

(b) In approving access as part of a plan of operations, the authorized officer shall specify the location of the access route, the design, construction, operation and maintenance standards, means of transportation, and other conditions necessary to prevent impairment of wilderness suitability, protect the environment, the public health or safety, Federal property and economic interests, and the interests of other lawful users of adjacent lands or lands traversed by the access route. The authorized officer may also require the operator to utilize existing access routes in order to minimize the number of separate rights-of-way, and, if practicable, to construct access routes within a designated transportation and utility corridor. When commercial hauling is involved and the use of an existing access route is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3802.4-3 Multiple-use conflicts.

In the event that uses under any lease, license, permit, or other authorization pursuant to the provisions of any other law, shall conflict, interfere with, or endanger operations in approved plans or otherwise authorized by these regulations, the conflicts shall be reconciled, as much as practicable, by the authorized officer.

§ 3802.4-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires on the area of mining operations.

§ 3802.4-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to protect the public in accordance with applicable Federal and State laws and regulations.

§ 3802.4-6 Inspection.

The authorized officer shall periodically inspect operations to determine if the operator is complying with these regulations and the approved plan of operations, and the operator shall permit access to the authorized officer for this purpose.

§ 3802.4-7 Notice of suspension of operations.

(a) Except for seasonal suspension, the operator shall notify the authorized officer of any suspension of operations within 30 days after such suspension. This notice shall include:

(1) Verification of intent to maintain structures, equipment, and other facilities, and

(2) The expected reopening date.

(b) The operator shall maintain the operating site, structure, and other facilities in a safe and environmentally acceptable condition during nonoperating periods.

(c) The name and address of the operator shall be clearly posted and maintained in a prominent place at the entrance to the area of mining operations during periods of nonoperation.

§ 3802.4-8 Cessation of operations.

The operator shall, within 1 year following cessation of operations, remove all structures, equipment, and other facilities and reclaim the site of operations, unless variances are agreed to in writing by the authorized officer. Additional time may be granted by the authorized officer upon a show of good cause by the operator.

§ 3802.5 Appeals.

(a) Any party adversely affected by a decision of the authorized officer or the State Director made pursuant to the provisions of this subpart shall have a right of appeal to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to part 4 of this title.

(b) In any case involving lands under the jurisdiction of any agency other than the Department of the Interior, or an office of the Department of the Interior other than the Bureau of Land Management, the office rendering a decision shall designate the authorized officer of such agency as an adverse party on whom a copy of any notice of appeal and any statement of reasons, written arguments, or brief must be served.

§ 3802.6 Public availability of information.

(a) Except as provided herein, all information and data, including plans of operation, submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act (F.O.I.A.).

(b) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information and so determined by the authorized officer will not be available for public examination.

(c) The determination concerning specific information which may be withheld from public examination will be made in accordance with the rules in 43 CFR Part 2.

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Federal Register

Monday
March 3, 1980

Part VII

Department of Transportation

Coast Guard

Electrical Engineering Regulations; Supplemental Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

46 CFR Parts 110 and 113

[CGD 74-125A]

Revision of Subchapter J, Electrical Engineering

AGENCY: Coast guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: In a previous issue of the Federal Register, a proposed rewrite of the Coast Guard's Electrical Engineering Regulations was issued. The proposal was issued to update the regulations, clarify them, delete some unnecessary requirements, and incorporate international recommendations. Many letters of comment were received in reaction to this proposed rulemaking. Comments containing valid points have been incorporated into proposed regulations. Some of the changes made as a result of these comments deserve further deliberation and comment before issuance of final rules. These changes have been incorporated in this supplemental notice of proposed rulemaking. Several other changes included in this supplement are new proposals which are not as a result of public comment, but are necessary changes to update the regulations. Comments are invited on any part of this supplement.

DATES: Comments must be received on or before April 17, 1980.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/TP24) (74-125A), U.S. Coast Guard, Washington, D..C 20593. Comments will be available for examination at the Marine Safety Council (G-CMC/TP24), Room 2418, Department of Transportation, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 between the hours of 7:30 AM to 4:30 PM Monday—Thursday, except holidays. Copies of the Draft Evaluation and Standards cited in this notice are also available for examination at this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Roger D. Mowery, Project Manager, Office of Merchant Marine Safety (G-MMT-2/TP12), Room 1214, Department of Transportation, Transpoint Building, Washington, D.C. 20593, PH: 202-426-2206.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 74-125A) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. If an acknowledgement is desired, a stamped, addressed postcard should be enclosed. The supplemented sections of the proposal may be changed in light of comments received. Changes made as a result of these comments will be published in the final rules along with the other changes to the proposed rules upon which the Coast Guard has already received comments. All comments received will be discussed when the final rules are issued, including any comments received on the original proposal, which are not discussed in this supplement. No public hearing is planned but one will be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting the supplement are: Lieutenant Commander Roger D. Mowery, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Counsel, Office of Chief Counsel.

DISCUSSION OF THE SUPPLEMENTAL NOTICE: In the June 27, 1977 issue of the Federal Register (42 FR 32700), the Coast Guard published a notice of proposed rulemaking (CGD 74-125) which would amend its Electrical Engineering Regulations. As a result of the proposed rulemaking, fifty persons submitted letters of comment. The total number of individual comments exceeded a thousand. Many of these comments contained valid points which have been incorporated into proposed regulations. The changes made as a result of comment upon which the Coast Guard can make final ruling will be incorporated in the final rules. Changes made as a result of comments which deserve further deliberation and comment before final rulemaking have been incorporated in this supplemental notice. Several other changes are new proposals which are not as a result of public comment but are necessary changes to update the regulations. These also have been included in this supplemental proposal.

All changes in this supplemental proposal are discussed below. The changes are amendments to the original proposal; therefore, all section numbers used correspond to those of the proposed regulations and not to the section numbers of the existing regulations.

A change to § 110.25-1a would require submission of fault current calculations, even if the simplified calculation is used. Also, an overcurrent protective device coordination analysis would be required for each generator distribution system. The calculations and study are required under existing regulation but are not specifically mentioned for required plan submission.

A change to § 110.25-1(j) would require that plans be submitted for technical review showing the extent and classification of all hazardous locations on a vessel with hazardous locations as defined in Subpart 111.105. In addition, information identifying electrical equipment to be installed in hazardous locations would be required. This should insure, at the earliest possible time, that hazardous areas are classified correctly and that the equipment in these locations meets the requirements of regulations for such equipment. This is necessary because of the long lead times associated with procuring such equipment. This requirement will be new to the regulations although it is present policy to require these plans and information.

Three comments suggested that intrinsically safe systems should be approved by the Coast Guard and not require approval by U.L. or Factory Mutual since these agencies approve devices and not systems. The comments are wrong in that intrinsically safe equipment obtains third party approval as a system only. Any modification or addition to the approved system (except non-stored energy devices) negates the approval. For instance, the interconnection of intrinsically safe systems is not acceptable unless the third party approval agency investigated the particular interconnection. To help insure that the systems will be installed as approved, § 110.25-1(k) would require plans and installation instructions for each third party approved system.

The addition of §§ 110.25-1(l) and 110.25-1(m) would require that sufficient information be submitted to permit evaluation of equipment that is required to meet Coast Guard requirements or a referenced standard or specification if there is no other evidence such as Underwriters Laboratories listing or manufacturer's certification to indicate compliance. The specific requirement of such information is now required by policy to support equipment approval or acceptance.

Section 111.12-11(b) has been changed as a result of many comments received regarding the prohibition of molded case generator circuit breakers on installations of 25 KW or greater. Some comments did not agree with the statement in the preamble of the original proposal concerning molded case circuit

breakers not being as reliable as open frame circuit breakers. This statement probably should have been read "not as suitable" in lieu of "not as reliable" since the typical molded case circuit breaker did not have curve shaping capabilities, remote control, and the required trips. As some comments pointed out, there are modern molded case circuit breakers with static sensing and fully adjustable static tripping which permits sufficient selectivity and reliability to be used for generator protection. The proposed regulations have been modified to permit molded case circuit breakers, provided they meet certain performance standards, which have been added. This part of the proposed regulations is included in this supplemental proposal to solicit comments on whether there may be any disadvantages in allowing the use of molded case circuit breakers in all applications. The complete section on generator protection is included in this supplement so as to include the performance standards for the breakers.

Two comments questioned the logic of § 111.12–11(h) where the generator and switchboard are in separate spaces. One comment suggested that if the circuit breaker is in the generator space it leaves a section of cable between the switchboard and the breaker that is subject to short circuit currents that may be from several generators whose individual current contribution would not trip their breaker. This is possible, but the number of installations that routinely run three or more generators at any one time is limited. However, to protect this type of installation and keep the circuit breaker at the switchboard, the proposed regulations have been rewritten to require the current transformer to be at the generator and the generator excitation to be removed when the circuit breaker trips. Since this is a significant change in circuit arrangement, the Coast Guard is interested in comments concerning it. This new requirement has been renumbered § 111.12–11(g).

Section 111.50–15(e)(7) of the existing regulations has been added to the proposal as § 111.30–4. However, the regulation has been relaxed and is included in the supplement for comment due to possible safety implications. The present requirement is for a molded-case circuit breaker to be mounted or arranged on a generator or distribution switchboard so that it may be removed without first disconnecting trip or cable connections. The proposed regulations would allow manual disconnecting of the secondary side cable connections.

The requirement to sectionalize the main switchboard has been moved from § 111.30–25(h) of the proposed rules to § 111.30–24 since the IMCO A325 (IX) recommendation is applicable to both AC and DC switchboards and not just AC systems as written in the original proposed rules.

Subpart 111.33 has been completely revised. Eleven comments responded to the original proposed semiconductor rectifier regulations. Several comments pointed out that the regulations covered all semiconductor rectifiers but contained requirements for a large, power-ventilated rectifier. The requirements have been generalized to encompass all power semiconductor rectifiers. Due to the extent of the rewriting of this subpart, it has been republished in its entirety for comment.

The addition of § 111.60–19(d) would not allow cable splices in hazardous locations except in intrinsically safe circuits. This is an addition to the proposal and would adopt the requirement of the American Bureau of Shipping.

A new requirement has been added in § 111.70–3(1) which would require all motor controller contactors that utilize liquid not to leak when inclined at a 30° angle.

In response to the original proposal § 111.79–15, concerning receptacles for refrigerated containers, several comments indicated that the container plugs were being disconnected under load with the present arrangement. The regulation would be revised to require power to receptacle contacts to be deenergized prior to the making or breaking of the connection between the plug and receptacle contacts. Due to the economic impact on refrigerated container shippers, this change is published for further comment.

The entire Subpart 111.93 on electric steering systems is republished in this supplemental notice. The basic definitions in the original proposal made the entire subpart difficult to understand. The subpart has been revised to include new definitions and to incorporate the latest recommendations of the Intergovernmental Maritime Consultative Organization (IMCO) and the National Transportation Safety Board (NTSB).

Sections 111.105–15 and 111.105–17 have been changed to require armored or MI type cable in hazardous areas. This requirement was inadvertently left out of the original proposal.

The addition of § 113.35–3(e) would require vessels with pilothouse control to have an engine order telegraph indicator at each remote local control station in the engineroom. This proposed section would adopt a recommendation of the National Transportation Safety Board.

A new Subpart 113.37 would add requirements for shaft speed and thrust indicators in the wheelhouse and at the engineroom control station. This new subpart would prescribe standards for the indicators. The most important of these would require the indicators to operate independently of the propulsion control system so that the indicators will still function if the vessel must use local control for propulsion. This proposed subpart would adopt a recommendation of the National Transportation Safety Board.

A new Subpart 113.43 would add requirements for a steering failure alarm system which would compare the actual rudder position with the ordered rudder position. The alarm time delay is dependent on the size of the rudder change ordered. This proposed subpart would adopt a recommendation of the National Transportation Safety Board.

This supplemental proposal has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A copy of the draft evaluation may be obtained from Commandant (G–CMC/TP), U.S. Coast Guard, Washington, D.C. 20593, (202) 426–1477.

In consideration of the foregoing, the notice of proposed rulemaking (CGD 74–125) published in the June 27, 1977 issue of the Federal Register (42 FR 32700), is hereby modified and the Coast Guard proposes to further amend Chapter I of Title 46, Code of Federal Regulations, as follows:

PART 110—GENERAL PROVISIONS

1. By revising § 110.25–1(a) (6), by adding § 110.25–1(a)(7), by revising § 110.25–1(j), and by adding § 110.25–1(k), (l), and (m) to read as follows:

§ 110.25–1 Plans and information required for new construction.

* * * * *

(a) * * *

(6) Computations of short circuit currents in accordance with Subpart 111.52; and

(7) Overcurrent protective device coordination analysis for each generator distribution system which includes selectivity and shows that each overcurrent device has an interrupting capacity sufficient to interrupt the maximum asymmetrical short-circuit current available at the point of application.

* * * * *

(j) For vessels with hazardous locations as defined in Subpart 111.105,

plans showing the extent and classification of all hazardous locations. Information including manufacturer's name, model identification, and equipment location must be submitted for all electrical equipment in these hazardous locations. For each item of explosion proof or intrinsically safe electrical equipment in a hazardous location, the testing laboratory which approved the equipment along with the class, division, and group for which it is approved must be indicated. Also, operating temperature or temperature range based on operation in the 40°C ambient, must be indicated for heat-producing equipment.

(k) Plans and installation instructions for each intrinsically safe system approved by Underwriters Laboratories Inc., Factory Mutual Research Corporation, or other independent laboratory approved by the Commandant.

(l) Plans or information sufficient to evaluate equipment required by this subchapter to be approved by the Coast Guard.

(m) Plans or information sufficient to evaluate equipment (switches, boxes, etc.) required by this subchapter to meet a referenced standard or specification, except if there is sufficient evidence, such as manufacturer's certification or Underwriters Laboratories Listing, to indicate compliance with the referenced document.

PART 111—ELECTRIC SYSTEM—GENERAL REQUIREMENTS

2. By revising § 111.12-11 to read as follows:

§ 111.12-11 Generator protection.

(a) *Applicability.* This section applies to each generator except a propulsion generator.

(b) *General.* Each ship's service generator and emergency generator must be protected by an individual, trip-free, air circuit breaker whose tripping characteristics can be set or adjusted to closely match the generator capabilities and meet the coordination requirements of Subpart 111.51. Each circuit breaker must contain the trips required by this section.

(c) *Type of trips.* A circuit breaker for a generator must—

(1) Have inverse time overcurrent trips or relays set as necessary to coordinate with the trip settings of the feeder circuit breakers; and

(2) Not have an instantaneous trip with the exception that an instantaneous trip is required if—

(i) Three or more alternating-current generators can be paralleled; or

(ii) The circuit breaker is for a direct-current generator.

(d) *Setting of inverse time trips.* The pickup setting of the longtime overcurrent trip of a generator circuit breaker must not be larger than—

(1) 115 percent of the generator rating for a continuous rated machine; or

(2) 115 percent of the overload rating for a machine with a 2-hour or greater overload rating.

(e) *Setting of instantaneous trips.* The instantaneous trip of a generator circuit breaker must be set above, but as close as practicable to, the maximum asymmetrical short circuit available from any one of the generators that can be paralleled.

(f) *Reverse-power and reverse-current trips.* Each generator arranged for parallel operation must have reverse-power or reverse-current trips.

(g) *Location.* The generator overcurrent protective device must be on the ship's service generator switchboard. If a generator and switchboard are located in different spaces, the installation must meet the following requirements (A control room that is inside of the machinery casing is not considered a separate space for the purposes of this section if the generator is clearly visible from the switchboard.):

(1) The overcurrent device's current sensing mechanism, such as a current transformer, must be in the same space as the generator.

(2) The overcurrent sensing system must be designed to remove excitation from the generator being protected when the generator circuit breaker opens.

(h) *Three-wire, single-phase and four-wire, three-phase generators.* There must be circuit breaker poles for each generator lead, except in the neutral lead.

(i) *Three-wire, direct-current generators.* Each three-wire, direct current generator must meet the following requirements:

(1) *Circuit breaker poles.* There must be separate circuit breaker poles for the positive and negative leads, and, unless the main poles provide protection, for each, equalizer lead. If there are equalizer poles for a three-wire generator, each overload trip must be of the "Algebraic" type. If there is a neutral pole in the generator circuit breaker, there must not be an overload trip element for the neutral pole. In this case, there must be a neutral overcurrent relay and alarm system that is set to function at a current value not more than the neutral rating.

(2) *Equalizer buses.* For each three-wire generator, the circuit breaker must protect against a short circuit on the equalizer bus.

3. By adding § 111.30-4 to read as follows:

§ 111.30-4 Circuit breakers removable from front.

Circuit breakers of the molded-case type, when installed on generator or distribution switchboards, must be mounted or arranged in such a manner that the circuit breaker may be removed from the front without first disconnecting bus connections or deenergizing the supply.

(4) By adding § 111.30-24 to read as follows:

§ 111.30-24 Generation systems, 3,000 kw or more.

When the total installed electric power of the ship's service operation system is 3000 kw or more, the switchboard must have the following:

(a) At least two sections of the main bus that are connected by—

(1) A non-automatic circuit breaker;

(2) A disconnect switch; or

(3) Removable links.

(b) As far as practicable, the connection of generators and duplicated equipment equalized between the sections of the main bus.

5. By revising Subpart 111.33 to read as follows:

Subpart 111.33—Power Semiconductor Rectifiers

§ 111.33-1. General.

This subpart is applicable to all power semiconductor rectifiers. In addition to the regulations contained in this subpart, the requirements of §§ 111.30-11, 111.30-19 and 111.30-21 of this part must be met, if applicable.

§ 111.33-3. Nameplate data.

(a) Each semiconductor rectifier must have a nameplate containing the words "Marine semiconductor rectifier," and the following information:

(1) Manufacturer's name and address.

(2) Manufacturer's serial number.

(3) Type.

(4) Rated AC volts.

(5) Rated AC amperes.

(6) Number of phases.

(7) Frequency.

(8) Rated DC volts.

(9) Rated DC amperes.

(10) Ambient temperature range.

(11) Duty cycle.

(12) Cooling medium.

(b) If, on small rectifiers, the information required by paragraph (a) of this section cannot be shown because of space limitations, the nameplate must be at least large enough to contain the manufacturer's name and serial number. The remaining information must be shown on the schematic diagram.

§ 111.33-5. Installation.

(a) Each semiconductor rectifier must have an adequate heat-removal system that prevents overheating. Rectifiers may be naturally cooled, forced-air-cooled, or water-cooled. An immersed type rectifier must not be used unless—

(1) A non-flammable liquid is used; and

(2) The rectifier is capable of operation without leakage when the ship is inclined to an angle of 30° each side of the vertical.

(b) Semiconductor rectifiers must not be located near sources of radiant heat such as steam pipes and engine exhausts.

(c) Semiconductor rectifiers must be rated for continuous 50°C ambient temperatures and must be capable of satisfactory operation down to a 0°C ambient.

(d) Naturally cooled rectifiers must be installed such that—

(1) The air circulation to and from the rectifier is not restricted; and

(2) The inlet air temperature does not exceed the values for which it was designed.

(e) Forced-air or water-cooled semiconductor rectifiers must be designed to prevent application or retention of power on the rectifier unless the cooling is maintained.

(f) Water-cooled semiconductor rectifiers must be designed for an inlet cooling water temperature of 30°C.

(g) Rectifier stacks must have an enclosure that is watertight or dripproof.

§ 111.33-7. Alarms and shutdowns.

Each power semiconductor rectifier must have a high temperature alarm or shutdown, except as provided in § 111.33-11.

§ 111.33-9. Ventilation exhaust.

The exhaust of each forced-air semiconductor rectifier system must—

(a) Terminate in a location other than a hazardous location under Subpart 111.105 of this part; and

(b) Not impinge upon any other electric device.

§ 111.33-11. Propulsion systems.

(a) Each power semiconductor rectifier in a propulsion system must—

(1) Meet section 35.84.4 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels";

(2) Have current limiting and current rate limiting circuits;

(3) Have external overcurrent protection;

(4) Have a high temperature alarm that activates prior to any high temperature shutdown;

(5) Have internal fuses or other acceptable overcurrent devices that—

(i) Do not operate under external faults, and

(ii) Are coordinated with thyristor capability to protect from internal faults involving only a fraction of the total number of branches in each leg;

(6) Have a system for detecting blown internal fuses; and

(7) Be installed in a place that is as dry as possible.

(b) Each power semiconductor rectifier in a propulsion system must not have piping run over or in its vacinity, if practicable. When such runs of piping are necessary, welded joints only must be used and shielding must be installed to prevent spray from steam or pressurized liquids or any leakage from impinging on the power semiconductor rectifier from the top, bottom, or sides in the event of accidental spillage or piping failures.

6. By adding § 111.60-19(d) to read as follows:

§ 111.60-19. Cable splices.

* * * * *

(d) A cable must not be spliced in a hazardous location except in intrinsically safe circuits.

7. By adding § 111.70-3(1) to read as follows:

§ 111.70-3. Motor controllers and motor control centers.

* * * * *

(l) *Heel angle.* Each controller contactor must be designed for satisfactory operation at a 20° angle of inclination in any direction, and any controller that utilizes liquid must not leak when inclined at a 30° angle.

8. By revising § 111.79-15 to read as follows:

§ 111.79-15. Receptacles for refrigerated containers.

Each receptacle for refrigerated containers must have a switch interlocked in such a way that the receptacle's contacts are deenergized before the making or breaking of the connection between the plug and receptacle contacts. The design of the receptacle must be such that there is no accessible live contact or part when the plug is removed.

9. By revising Subpart 111.93 to read as follows:

Subpart 111.93—Electric Steering Systems

§ 111.93-1. Applicability.

This subpart applies to each steering gear installation that has—

(a) A main steering gear that is electrically powered;

(b) A main steering gear and an auxiliary steering gear that is electrically powered; or

(c) A steering gear control system that is electric or partially electric.

§ 111.93-3. Definitions.

As used in the subpart—

(a) "Main steering gear" means the machinery, the power units and ancillary equipment, and the means of applying torque to the rudder stock, tiller, or quadrant necessary for effecting movement of the rudder for the purpose of steering the ship under normal operating conditions.

(b) "Power unit" means—

(1) In the case of an electric steering gear, an electric motor and its associated electrical equipment such as the motor controller and disconnect switch; and

(2) In the case of an electro-hydraulic steering gear, an electric motor, connected pump, and its associated electrical equipment such as the motor controller and disconnect switch.

(c) "Control system" means the equipment by which orders for rudder movement are transmitted from the navigating bridge to the steering gear power units. Steering gear controls include, but are not limited to—

(1) Transmitters;

(2) Receivers;

(3) Feedback devices;

(4) Hydraulic control pumps, and their associated motors and motor controllers;

(5) Differential units; and

(6) All gearing, piping, shafting, and cables associated with steering gear controls.

§ 111.93-5. General.

when the main and auxiliary steering gears described by § 58.25-20 of this chapter are electrically powered and controlled or when an arrangement of two or more identical power units are utilized in accordance with § 58.25-25 of this chapter, the vessel must have two separate steering systems each consisting of a power unit, steering control system, steering gear feeder, and associated cable and ancillary equipment. The two systems must be separate and independent on a port and starboard basis. Other steering gear systems and arrangements are approved by Commandant (G-MMT) if they are equivalent to the one covered in this section.

§ 111.93-7 Feeder circuits.

(a) Vessels with one or more electrically driven steering power units must have at least two feeder circuits. One of these feeder circuits must be supplied from the ship's service switchboard. The other feeder circuit must be supplied from—

(1) The emergency switchboard if the ship is required by Part 112 of this chapter to have an emergency power source;

(2) An alternate power supply that—

(i) Is available automatically within 45 seconds of loss of power supply from the ship's service switchboard;

(ii) Is from an independent source of power located in the steering gear compartment;

(iii) Is used for no other purpose; and

(iv) Has capacity sufficient for one-half hour of continuous operation of the rudder from 15 degrees on one side to 15 degrees on the other side in not more than 60 seconds with the ship at its deepest sea-going draft while running at one-half of its maximum ahead service speed or 7 knots, whichever is the greater.

(b) Vessels that have a steering gear with two electric motor driven power units must be arranged so that one power unit is supplied by one feeder and the other power unit is supplied by the other feeder.

(c) Each steering gear feeder circuit must be separated as widely as practicable from the other.

(d) Each feeder circuit must have a disconnect switch in the steering gear room.

(e) Each feeder circuit must have a current-carrying capacity of—

(1) 125 percent of the full load current rating of the electric steering gear motor or power unit; and

(2) 100 percent of the normal current of one steering control system current including any associated motors.

§ 111.93-9. Steering control systems.

(a) Each steering power unit must have at least one steering control system.

(b) Each steering control system must be one that can be operated from the pilothouse.

(c) Each steering control system must be arranged in such a way that each steering gear power unit can be controlled in the steering gear room.

(d) The steering control system for a steering power system must be separated as widely as practicable from each other steering control system and each steering power system that it does not control.

(e) Each steering control system must have a switch in the pilothouse that is arranged in such a way that one action of the switch's handle automatically puts into operation a complete steering control system and the associated steering power unit.

(f) If there is more than one steering control system, the switch required by paragraph (e) must be—

(1) Operated by one handle;

(2) Arranged so that not more than one steering control system and its associated steering power system can be energized from the pilothouse at any one time;

(3) Arranged so that the handle passes through an "off" position when transferring from one steering control system to another; and

(4) In separate enclosures or separated by fire-resistant barriers.

(g) Each steering control system must receive its power from the feeder circuit for its steering power system in the steering gear room.

(h) Each steering control system must have a switch that—

(1) Is in the steering gear room; and

(2) Disconnects the steering control system from its power source.

(i) Each motor controller for a steering gear must—

(1) Be in the steering gear room; and

(2) Have low voltage release.

(j) A means to start and stop each motor for a steering gear must be in the steering gear room.

§ 111.93-11. Overcurrent protection for steering systems.

(a) *Feeder circuits.* Each steering feeder circuit must be protected by a circuit breaker that is on the switchboard from which it is supplied and has an instantaneous trip set at a current of at least—

(1) 300 percent and not more than 375 percent of the rated full-load current of one steering gear main motor for a direct-current steering gear motor; and

(2) 175 percent and not more than 200 percent of the locked-rotor current of one steering gear main motor for an alternating-current steering gear motor.

(b) *No other protection.* A steering feeder circuit must not have any overcurrent protection, except that required under paragraph (a).

(c) *Motor overloads.* A main steering gear motor and a motor for a steering control system must not be protected by an overload protective device. The motor must have a device that operates an audible and visual alarm in the pilothouse and at the main machinery control station if there is an overload that would cause overheating of the motor.

(d) *Short-circuit protection.* Each control circuit of a motor controller, each steering control system, and each indicating and alarm system must have—

(1) Short-circuit protection that is instantaneous and rated at 400 to 500 percent of—

(i) The current-carrying capacity of the conductor; or

(ii) The normal load of the system; and

(2) No other overcurrent protection.

(e) *Protection of steering control systems.* The short-circuit protective device for each steering control system must be—

(1) In the steering gear room; and

(2) In the control circuit just after the steering control system disconnect switch.

§ 111.93-13 Indicating and alarm systems for steering installations.

(a) Visual and audible alarms must activate in the pilothouse and at the main machinery control station upon—

(1) Opening of a steering gear feeder circuit breaker;

(2) Failure of any phase of a three phase supply;

(3) Overload that would cause overheating of the motor;

(4) Failure of the power supply to any steering gear power unit; and

(5) Low oil level of each oil reservoir of a hydraulic power-operated steering system.

(b) Each steering gear power motor and each auxiliary motor for control of the rudder must have a pilot light that lights in the pilothouse when the motor is energized.

(c) The audible alarms required by paragraph (a) of this section must not be sounded by the same device unless the visual alarms indicate the particular failure.

10. By revising § 111.105-15 to read as follows:

§ 111.105-15 Wiring methods for class I hazardous.

(a) Cable for a Class I hazardous location, except as provided in paragraph (b) of this section must—

(1) Be armored or MI type cable; and

(2) Meet Subpart 111.60 of this part.

(b) Cable for use in an intrinsically safe system must meet—

(1) Subpart 111.60 of this part; and

(2) The recommendations of ISA RP 12.6 "Installation of Intrinsically Safe Instrument Systems in Class I Hazardous Locations," except Appendix A.1.

(c) Each explosion-proof enclosure that is in a Class I location must have an approved explosion-proof seal fitting that is—

(1) Threaded directly into the enclosure; or

(2) Connected to the enclosure by a piece of approved explosion-proof rigid metal conduit that is 18 inches (460 mm) or less in length.

11. By revising § 111.105-17 to read as follows:

§ 111.105-17 Wiring methods for class II and class III hazardous locations.

(a) Cable for a Class II or III hazardous location must—

(1) Be armored or MI type cable; and

(2) Met Subpart 111.60 of this part.

(b) Each cable entrance to electric equipment in Class II and Class III hazardous locations must have a dust-tight terminal tube.

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

12. By adding § 113.35-3(e) to read as follows:

§ 113.35-3 General requirements.

* * * * *

(e) On vessels equipped with pilothouse control, each local control station in the engineroom must have an indicator if—

(1) Manual operation from the local control station is an alternate means of control; and

(2) The local control station is not immediately adjacent to the engineroom control station.

13. By adding a new Subpart 113.37 to read as follows:

Subpart 113.37—Shaft Speed and Thrust Indicators

§ 113.37-1 Applicability.

This subpart applies to all self-propelled vessels.

§ 113.37-5 General requirements.

(a) Vessels equipped with fixed pitch propellers must have a propeller speed and direction indicator for each shaft installed in the wheelhouse and at the engineroom control station.

(b) Vessels equipped with controllable pitch propellers must have a propeller speed and pitch position indicator for each shaft installed in the wheelhouse and at the engineroom control station.

§ 113.37-10 Detail requirements.

(a) Each indicator must be independent of the propulsion control system. A failure of the propulsion control system must not affect the opertion of the indicators.

(b) Indicators in the wheelhouse must be installed prominently near the rudder angle indicator and must have illumination that does not interfere with the navigation of the vessel at night.

(c) Each electric component of indicators in the wheelhouse must be watertight or be in a watertight enclosure.

(d) Each component material of indicators in the wheelhouse must be corrosion-resistant.

12. By adding a new Subpart 113.43 to read as follows:

Subpart 113.43—Steering Failure Alarm Systems

§ 113.43-1 Applicability.

This subpart applies to each vessel that has power driven main or auxiliary steering gear.

§ 113.43-3 Alarm system.

(a) Each vessel must have a steering failure alarm system that actuates an audible and visible alarm in the pilothouse when the actual position of the rudder differs by more than 5 degrees from the rudder position ordered by the helm for more than—

(1) 30 seconds for ordered rudder position changes of 70 degrees;

(2) 5 seconds for ordered rudder position changes of 1 degree; and

(3) The time period calculated by the following formula for ordered rudder positions changes between 1 degree and 70 degrees:

$$t=(\theta/2.76)+4.64$$

Where

t=maximum time delay in seconds

θ=ordered rudder change in degrees

(b) The alarm system must be separate from, and independent of, each steering gear control system, except for input received from the steering wheel shaft.

(c) The alarm system may have a means for silencing the audible alarm.

§ 113.43-5 Power supply.

Each steering failure alarm system must be supplied by a circuit that—

(a) Supplies no other system;

(b) Is fed from the final emergency power source through the emergency distribution panel in the wheelhouse, if installed; and

(c) Has no overcurrent protection except short-circuit protection by an instantaneous fuse or circuit breaker rated or set at 400 to 500 percent of—

(1) The current-carrying capacity of the smallest alarm system interconnecting conductors; or

(2) The normal load of the system.

(46 U.S.C. 375, 390(b), 391(a), 416, 526p; 49 U.S.C. 1655(b); 49 CFR 1.46)

Dated: February 25, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-6582 Filed 2-29-80; 8:45 am]

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Part VIII

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Petroleum Refineries; Clarifying Amendment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1423-2]

Standards of Performance for New Stationary Sources; Petroleum Refineries; Clarifying Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This proposed action clarifies which gaseous fuels used at petroleum refineries are covered by the existing standards of performance for petroleum refineries (40 CFR 60.100). This action will not change the environmental, energy, and economic impacts of the existing standards.

DATE: Comments must be received on or before May 2, 1980.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket Number A–79–56, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. *Docket.* The Docket, Number A–79–56, is available for public inspection and copying at EPA's Central Docket Section, Room 2902 Waterside Mall, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Susan R. Wyatt, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5477.

SUPPLEMENTARY INFORMATION: On March 12, 1979, EPA published in the Federal Register (44 FR 13480) a clarifying amendment intended to "reduce confusion concerning the applicability of the sulfur dioxide standard to incinerator-waste heat boilers installed on fluid or Thermofor catalytic cracking unit catalyst regenerators and fluid coking unit coke burners." That action included a change in the definition of "fuel gas." It now appears the revised definition of "fuel gas" could easily be interpreted to include natural gas as a fuel gas. This would mean that refineries using natural gas would be subject to the expense of performance testing, monitoring, and reporting requirements even though the natural gas contained essentially no sulfur and did not result in emissions of sulfur dioxide when combusted.

The intent of the existing standards of performance for refinery fuel gas has always been to prevent emissions of sulfur dioxide resulting from the burning of gaseous fuels containing hydrogen sulfide. Generally, natural gas used in refineries is purchased from outside sources and delivered to the refinery via pipelines. This natural gas contains only trace amounts of hydrogen sulfide due to specifications established to protect the pipelines from corrosion. It would impose an unnecessary burden on refineries to require performance testing, monitoring, and reporting where this natural gas is burned by itself.

In a few cases, however, a refinery may generate natural gas. There may be no legal or technical requirement that this gas be desulfurized before combustion. If this gas contains appreciable hydrogen sulfide and other sulfur constituents, significant emissions of sulfur dioxide would result when it is burned. The existing standards of performance for petroleum refineries were intended to cover these types of gases. Consequently, the definition of "fuel gas" is rewritten to clarify that only natural gas generated at a petroleum refinery is to be considered fuel gas. The effective date of the revised definition would be March 12, 1979.

Miscellaneous: Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: February 26, 1980.

Douglas M. Costle,

Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by revising paragraph (d) as follows:

60.101 Definitions.

* * * * *

(d) "Fuel gas" means natural gas generated at a petroleum refinery, or any gas generated by a refinery process unit, which is combusted separately or in any combination with any type of natural gas. Fuel gas does not include gases generated by catalytic cracking unit catalyst regenerators and fluid coking burners.

* * * * *

(Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a))

[FR Doc. 80-6596 Filed 2-29-80; 8:45 am]

BILLING CODE 6560-01-M

federal register

Monday
March 3, 1980

Part IX

Department of Transportation

Urban Mass Transportation Administration

Emergency Stockpiling of Buses

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 641

[Docket No. 80-B]

Emergency Stockpiling of Buses

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Proposed Policy and Guidelines.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is proposing a policy that would encourage its grantees to stockpile buses for possible future emergency use. Current UMTA policy is to require grantees to sell for scrap or reuse buses being replaced. The purpose of the revised policy is to ensure the availability of a larger pool of buses during local emergencies to respond to substantial and unexpected sudden changes in demand for service.

DATE: Comments must be received by April 16, 1980.

ADDRESS: Comments must be submitted to UMTA Docket No. 80-B, 400 7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with the comment.

FOR FURTHER INFORMATION CONTACT: Charlotte Adams, Office of Program Analysis, (202) 472-6997.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible. The Administrator has determined that this regulation is not a significant regulation under the criteria in the DOT order for Improving Government Regulations (44 FR 11042, February 26, 1979).

A draft Regulatory Evaluation has been prepared for this proposal, and has been placed in the public docket, and is available at the address listed above.

Discussion of Proposal and Background

UMTA expects that stockpiling of buses for future emergency use will provide potential for low cost, immediate increased mass transit capacity should fuel supplies for the general public become so restricted or costs so prohibitive that those now utilizing automobiles turn to transit use in increasingly larger numbers. UMTA, therefore, encourages grantees to consider stockpiling as an opportunity for low cost preparedness for potential increased capacity needs. UMTA awards grants for bus fleet expansion, bus rehabilitation and bus replacement. The current UMTA policy will continue to be applied to bus fleet expansion and bus rehabilitation projects, in which no buses are permanently removed from active service.

Through bus replacement grants, UMTA will approve stockpiling of buses that are being removed from active service and replaced by newer buses. UMTA also will permit stockpiling of buses that are no longer needed for regular transit service because of service cutbacks.

Buses stored under this policy may be used in times of energy emergencies, as a supplement to regular transit equipment is there are unexpected changes in local conditions, or for short term use as a substitute for buses being rehabilitated.

In the interest of making all transit operators and the general public aware of the issues to be considered in developing a long term policy on bus stockpiling, UMTA specifically requests comments on the following questions relating to stockpiling:

1. What should be the condition of buses that grantees may consider for stockpiling? The concern is that buses should not be so deteriorated when stockpiled that it would not be possible to return them to service on short notice.

2. Should UMTA require a maintenance program for stockpiled buses and what should be the elements of such a maintenance program? Stockpiled buses must be able to be returned to service on very short notice. What mechanism could be used to assure storage so that this can be accomplished?

3. What are the types of unexpected conditions that would justify an emergency return to service of stockpiled buses? UMTA suggests that stockpiled buses be returned in times of an energy emergency, a sudden local change in conditions requiring increased capacity, or as substitutes for regular buses being rehabilitated. Are there other conditions that should be considered?

4. Under what conditions would it be appropriate for a grantee to lease or loan stockpiled buses to other grantees or agencies in other localities? If one area experiences a need for increased transit capacity while another does not have such a need, should UMTA have the authority to require such lease or loan?

During the period of this rulemaking, UMTA will consider requests for stockpiling by its grantees on a case by case basis. The justifications presented by the grantees will be evaluated to determine whether or not the requests will be approved.

In consideration of the foregoing, it is proposed that a new Part 641 be added to Title 49 of the Code of Federal Regulations to read as follows:

PART 641—STOCKPILING OF BUSES

Sec.
641.1 Policy.
641.3 Guidelines.

Authority: 49 U.S.C. 1604; 23 U.S.C. 103 and 142; 49 CFR 1.51.

§ 641.1 Policy.

The Urban Mass Transportation Administration will permit the stockpiling of buses by its grantees for future energy emergency use.

§ 641.3 Guidelines.

(a) This section sets out the guidelines that the Urban Mass Transportation Administration and its grantees will follow in implementing the policy set out in § 641.1.

(b) In cases of new grants being awarded for bus replacement, provisions for revenue financing via the disposal of the replaced bus need not always be included as an element of the grant contract. Replaced vehicles may be retained by a grantee.

(c) In cases of bus replacement grants that contain provisions for revenue financing through the sale of the replaced buses for scrap or reuse, but where the disposal has not yet taken place, UMTA may give the grantee permission to delay the disposal. The vehicles may instead by retained by a grantee.

(d) UMTA will approve buses for stockpiling that are being replaced because they have been proven to be uneconomical to operate under current conditions in regular transit service or that are no longer needed for regular transit service because of service reductions.

(e) The number of buses stored, as well as the type and size of any storage facility, must be consistent with the requirements established in local energy contingency plans.

(f) Rehabilitated buses may not be stockpiled until they have completed the active service for which they have been rehabilitated in accordance with 49 CFR Part 640.

(g) Stored buses may be used only in the following situations:

(1) A national petroleum shortfall which results in a sharp increase in demand for mass transit services. In this case, UMTA will permit the return to service of all stockpiled buses throughout the nation. No documentation or modification to the original bus replacement grant will be necessary.

(2) As a supplement to regular transit service if unexpected changes in local conditions warrant the immediate availability of increased mass transit capacity. In this case, a grantee must request from UMTA the authority to return the stockpiled buses to service. The grantee must describe and justify the need for the immediate increase in capacity. UMTA will evaluate the request and, if found acceptable, will revise the original findings of the bus replacement grant to document and accommodate the changed conditions.

(3) For short term use as a substitute for buses being rehabilitated. A grantee must request authority to use stockpiled buses. UMTA will document its approval of this short term use.

(h) Normal operating costs incidental to the storage of buses, preparation for storage, and, if necessary return to active service for energy emergencies are eligible expenses for operating assistance under Section 5 of the Urban Mass Transportation Act of 1964, as amended.

(i) Capital costs associated with storage such as purchase of land, and its suitable preparation are eligible expenses for capital assistance under Section 5 of the Urban Mass Transportation Act of 1964, as amended; Section 103 of Title 23 of the United States Code (Interstate Transfer); and Section 142 of Title 23 of the United States Code (Federal Aid Urban Systems).

(j) Stockpiled buses may not be used under normal circumstances as a supplement to regular mass transit operations. However, in order to maintain the serviceability of stockpiled buses, they may be used periodically as substitutes for buses used in regular mass transit operations.

(k) Stockpiled buses must be maintained in a condition that would allow their return to service on short notice.

(l) Stockpiled buses may not be used for charter, school bus or other non-transit needs.

(49 U.S.C. 1604; 23 U.S.C. 103 and 142; 49 CFR 1.51).

Dated: February 27, 1980.

Theodore C. Lutz,

Administrator, Urban Mass Transportation Administration.

[FR Doc. 80-6607 Filed 2-29-80; 8:45 am]

BILLING CODE 4910-57-M

Monday
March 3, 1980

Part X

Federal Trade Commission

Comparability Ranges for Use in Labeling and Advertising for Consumer Appliances

FEDERAL TRADE COMMISSION

16 CFR Part 305

Use of Energy Costs and Consumption Information in the Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Comparability Ranges

AGENCY: Federal Trade Commission.

ACTION: Final rule; publication of comparability ranges.

SUMMARY: The Federal Trade Commission amends its regulations to add comparability ranges for use in labeling of consumer appliances. The comparability ranges are required under Title III of the Energy Policy and Conservation Act of 1975. The comparability ranges help implement statutory provisions as well as provide needed information about the amounts and cost of energy consumption by consumer appliances.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Lucerne D. Winfrey, 202–724–1560, or James Mills, 202–724–1491, Attorneys, Federal Trade Commission, 414 11th Street NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Title III of the Energy Policy and Conservation Act (EPCA) of 1975 requires the Federal Trade Commission to consider labeling rules for disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under the statute, the Department of Energy (DOE) is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine how much a consumer is likely to use each appliance on the average during a year, and the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces.

The rule mandates that energy efficiency ratings or energy costs and related information be disclosed on labels, fact sheets and in retail sales catalogs by May 19, 1980. Disclosures must be based on standardized test procedures. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. Any claims concerning energy consumption made in writing or in advertisements must be based on the results of the standardized test procedures.

Pursuant to § 305.8 of the rule, manufacturers were required to submit data reports to the Commission by January 21, 1980. These reports contain information on the estimated annual energy cost or energy efficiency rating for the seven categories of appliances derived from tests performed pursuant to the Department of Energy test procedures. The reports also contain the model numbers for each basic model, the number of tests performed on each model, and the capacity of each model. From this data the Commission has compiled the ranges of comparability for these products as required under § 305.10 of the rule.

In consideration of the foregoing, the Commission publishes the following ranges of comparability for use in the labeling and advertising of consumer appliances. This amends title 16, chapter 1, of the Code of Federal Regulations by adding to Subchapter C—Part 305—Rules for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act—ranges of comparability covering refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

Appendix A1 through G to Part 305 are revised to read as set forth below:

The ranges of comparability are:

Appendix A1.—*Refrigerators*

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs; electricity	
	Low	High
Less than 2.5	$18.00	$25.00
2.5 to 4.4	20.00	39.00
4.5 to 6.4	22.00	31.00
6.5 to 8.4	22.00	23.00
8.5 to 10.4	22.00	35.00
10.5 to 12.4	24.00	37.00
12.5 to 14.4	28.00	41.00
14.5 to 16.4	(1)	(1)
16.5 and over	(1)	(1)

[1] No data submitted.

Appendix A2.—*Refrigerator-Freezers*

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs: electricity	
	Low	High
Less than 10.5	$27.00	$30.00
10.5 to 12.4	31.00	60.00
12.5 to 14.4	48.00	89.00
14.5 to 16.4	33.00	92.00
16.5 to 18.4	45.00	88.00
18.5 to 20.4	51.00	91.00
20.5 to 22.4	64.00	89.00
22.5 to 24.4	83.00	94.00
24.5 to 26.4	79.00	109.00
26.5 to 28.4	94.00	94.00
28.5 and over	(1)	(1)

[1] No data submitted.

Appendix B.—*Freezers*

Manufacturer's rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs: electricity	
	Low	High
Less than 5.5	$18.00	$34.00
5.5 to 7.4	17.00	30.00
7.5 to 9.4	25.00	37.00
9.5 to 11.4	28.00	41.00
11.5 to 13.4	26.00	50.00
13.5 to 15.4	35.00	70.00
15.5 to 17.4	40.00	76.00
17.5 to 19.4	44.00	76.00
19.5 to 21.4	46.00	84.00
21.5 to 23.4	49.00	84.00
23.5 to 25.4	53.00	58.00
25.5 to 27.4	54.00	65.00
27.5 to 29.4	(1)	(1)
29.5 and over	84.00	134.00

[1] No data submitted.

Appendix C.—*Dishwashers*

Ranges of comparability	Ranges of estimated yearly energy costs: heated water			
	Electrically		Natural gas	
	Low	High	Low	High
Compact	(1)	(1)	(1)	(1)
Standard	$41.00	$80.00	$19.00	$39.00

[1] No data submitted.

Appendix D1.—*Water Heater—Gas*

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 21	(1)	(1)
21 to 24	(1)	(1)
25 to 29	(1)	(1)
30 to 34	$103.00	$118.00
35 to 40	111.00	129.00
41 to 47	110.00	124.00
48 to 55	(1)	(1)
56 to 64	102.00	161.00
65 to 74	110.00	151.00
75 to 86	113.00	156.00
87 to 99	124.00	162.00
100 to 114	124.00	156.00
115 to 131	141.00	234.00
Over 131	(1)	(1)

[1] No data submitted.

Appendix D2.—*Water Heater—Electric*

First hour rating	Ranges of estimated yearly energy cost: electricity	
	Low	High
Less than 21	$254.00	$327.00
21 to 24	257.00	311.00
25 to 29	254.00	350.00
30 to 34	257.00	353.00
35 to 40	259.00	345.00
41 to 47	261.00	345.00
48 to 55	261.00	291.00
56 to 64	261.00	392.00
65 to 74	261.00	414.00
75 to 86	264.00	474.00
87 to 99	273.00	423.00
100 to 114	278.00	514.00
115 to 131	280.00	412.00
Over 131	322.00	372.00

Appendix D3.—*Water Heater—Oil*

First hour rating	Ranges of estimated yearly energy cost	
	Low	High
Less than 65	(1)	(1)
65 to 74	(1)	(1)
75 to 86	(1)	(1)
87 to 99	$127.00	$154.00
100 to 114	204.00	204.00
115 to 131	199.00	214.00
Over 131	(1)	(1)

[1] No data submitted.

Appendix E.—*Room Air Conditioners*

Manufacturer's rated cooling capacity in BTU's/hr.	Ranges of energy efficiency ratings: electricity	
	Low	High
Less than 4,000	(1)	(1)
4,000 to 4,299	$5.10	$7.50
4,300 to 4,799	5.20	5.20
4,800 to 5,299	5.60	8.80
5,300 to 5,799	5.20	8.70
5,800 to 6,299	5.50	8.80
6,300 to 6,799	6.00	8.80
6,800 to 7,299	5.80	10.20
7,300 to 7,799	5.20	8.70
7,800 to 8,299	5.50	9.40
8,300 to 8,799	6.10	9.30
8,800 to 9,299	4.70	9.60
9,300 to 9,799	5.70	10.20
9,800 to 10,299	6.40	10.70
10,300 to 10,799	4.70	7.70
10,800 to 11,299	5.70	8.80
11,300 to 11,799	6.00	8.80
11,800 to 12,299	5.10	8.50
12,300 to 12,799	6.30	9.10
12,800 to 13,299	5.80	9.00
13,300 to 13,799	5.90	9.20
13,800 to 14,299	5.20	9.60
14,300 to 14,799	6.00	8.60
14,800 to 15,299	5.40	9.10
15,300 to 15,799	5.50	8.40
15,800 to 16,499	5.90	8.30
16,500 to 17,499	6.10	8.10
17,500 to 18,499	5.90	8.70
18,500 to 19,499	6.10	8.50
19,500 to 20,499	6.50	7.50
20,500 to 21,499	6.00	7.50
21,500 to 22,499	6.10	8.60
22,500 to 24,499	5.90	9.00
24,500 to 26,499	6.30	7.50
26,500 to 28,499	6.40	8.20
28,500 to 32,499	5.90	7.60
32,500 to 36,000	6.60	7.20

[1] No data submitted.

Appendix F.—*Clothes Washers*

Ranges of comparability	Ranges of estimated yearly energy costs: heated water			
	Electically		Natural gas	
	Low	High	Low	High
Compact	$32.00	$63.00	$9.00	$24.00
Standard	36.00	101.00	13.00	36.00

Appendix G.—*Furnaces*

Comparability (BTU per hour)	Ranges of energy efficiency ratings	
	Low	High
5,000 to 10,000	(1)	(1)
11,000 to 16,000	$100.00	$100.00
17,000 to 25,000	68.30	100.00
26,000 to 42,000	55.00	100.00
43,000 to 59,000	55.00	100.00
60,000 to 76,000	55.00	100.00
77,000 to 93,000	55.00	100.00
94,000 to 110,000	55.00	100.00
111,000 to 127,000	64.40	100.00
128,000 to 144,000	60.40	100.00
145,000 to 161,000	63.37	82.42
162,000 to 178,000	63.73	83.00
179,000 to 195,000	63.79	82.28
196,000 to 195,000	63.79	83.62

[1] No data submitted.

Carol M. Thomas,

Secretary

[FR Doc. 80-6610 Filed 2-29-80; 8:45 am]

BILLING CODE 6750-01-M

Reader Aids

Federal Register

Vol. 45, No. 43

Monday, March 3, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, MARCH

REMINDERS

The "reminders" below identify documents that appeared in issues of the Federal Register 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Saturday, March 1, 1980

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

2639 1–14–80 / Milk in the Inland Empire marketing area; order amending order

71402 12–11–79 / Milk in Indiana marketing area; order amending order

3878 1–21–80 / Milk in Greater Kansas City marketing area; order amending order

Forest Service—

64406 11–7–79 / Grazing fee systems; Southern region

ENERGY DEPARTMENT

Office of the Secretary—

7768 2–4–80 / Administrative claims under Federal Tort Claims Act; processing

JUSTICE DEPARTMENT

Parole Commission—

6379 1–28–80 / Changed procedures for retroactive guideline application

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

70106 12–5–79 / Rules of procedure; simplified proceedings

POSTAL SERVICE

8297 2–7–80 / Final international express mail rates to Republic of Korea

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

7540 2–4–80 / Air taxi operators and commercial operators; commuter pilot in command operating experience requirements

[See also 45 FR 7246, 2–1–80]

Federal Railroad Administration—

77328 12–31–79 / Railroad freight car safety standards

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

6105 1–25–80 / FM broadcast stations; station assigned to Sterling, Colo.

6584 1–29–80 / Regulatory policies concerning the provision of domestic public message services by entities other than the Western Union Telegraph Co. and proposed amendments

[Originally published at 45 FR 3037, Jan. 16, 1980]

FEDERAL DEPOSIT INSURANCE CORPORATION

8937 2–11–80 / Advertising and payment of interest on deposit; exemption of unsecured short-term commercial paper issued by mutual savings bank in minimum amounts of $100,000 or more

LABOR DEPARTMENT

Labor Management Standards Enforcement—

7525 2–1–80 / Labor organizations which may file simplified annual financial reports

NUCLEAR REGULATORY COMMISSION

50805 8–30–79 / Licenses for radiography and radiography safety requirements for radiographic operations

2312 1–11–80 / Licenses for radiography and radiation safety requirements for radiographic operations; change of reference

PERSONNEL MANAGEMENT OFFICE

7402 2–1–80 / Post employment conflict of interest

TRANSPORTATION DEPARTMENT

Coast Guard—

7156 1–31–80 / Oil pollution prevention provisions for vessels and marine oil transfer facilities

List of Public Laws

Last Listing February 28, 1980

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 469 / Pub. L. 96–196 Designating February 19, 1980, as "Iwo Jima Commemoration Day." (Feb. 28, 1980; 94 Stat. 64) Price $1.00.

H.J. Res. 477 / Pub. L. 96–197 To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream. (Feb. 28, 1980; 94 Stat. 65) Price $1.00.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: March 21; April 4 and 18; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

MEMPHIS, TENN.

WHEN: March 25 at 1 p.m.

WHO: The Office of the Federal Register in cooperation with Memphis State University.

WHERE: Assembly Room, Richardson Towers, Memphis State University.

RESERVATIONS: Call Dr. Frank Lewis, 901–454–2629.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
March 3	March 18	April 2	April 17	May 2	June 2
March 4	March 19	April 3	April 18	May 5	June 2
March 5	March 20	April 4	April 21	May 5	June 3
March 6	March 21	April 7	April 21	May 5	June 4
March 7	March 24	April 7	April 21	May 6	June 5
March 10	March 25	April 9	April 24	May 9	June 9
March 11	March 26	April 10	April 25	May 12	June 9
March 12	March 27	April 11	April 28	May 12	June 10
March 13	March 28	April 14	April 28	May 12	June 11
March 14	March 31	April 14	April 28	May 13	June 12
March 17	April 1	April 16	May 1	May 16	June 16
March 18	April 2	April 17	May 2	May 19	June 16
March 19	April 3	April 18	May 5	May 19	June 17
March 20	April 4	April 21	May 5	May 19	June 18
March 21	April 7	April 21	May 5	May 20	June 19
March 24	April 8	April 23	May 8	May 23	June 23
March 25	April 9	April 24	May 9	May 27	June 23
March 26	April 10	April 25	May 12	May 27	June 24
March 27	April 11	April 28	May 12	May 27	June 25
March 28	April 14	April 28	May 12	May 27	June 26
March 31	April 15	April 30	May 15	May 30	June 30

CFR CHECKLIST; 1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

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CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
4	$6.50
14 Parts:	
1200-end	6.00
16 Parts:	
0-149	7.00
150-999	6.00

CFR Unit (Rev. as of Apr. 1, 1979):

17	12.00
18 Parts:	
0-149	6.50
150-end	7.00
19	7.50
20 Parts:	
1-399	5.50
400-499	7.00
500-end	6.50
21 Parts:	
1-99	5.50
100-199	7.50
200-299	4.00
300-499	7.00
500-599	7.00
600-1299	6.00
1300-end	4.25
1300-end—1308 Table	4.25
22	7.00
23	6.50
24 Parts:	
0-499	8.00
500-1699	7.50
1700-end	6.00
25	7.00
26 Parts:	
1 (§§ 1.0-1.169)	8.00
1 (§§ 1.170-1.300)	6.50
1 (§§ 1.301-1.400)	5.50
1 (§§ 1.401-1.500)	6.00
1 (§§ 1.501-1.640)	6.00
1 (§§ 1.641-1.850)	6.50
1 (§§ 1.851-1.1200)	7.50
1 (§§ 1.1201-end)	8.50
2-29	6.00
30-39	6.00
40-299	7.00
300-499	6.00
600-end	4.25
27	11.00

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0-499	8.00
500-1899	9.00
1900-1919	11.00
1920-end	7.50
31	8.50
32 Parts:	
1-39 (Vol. I)	8.50
1-39 (Vol. III)	8.50
40-399	8.50
400-699	8.50
700-799	7.50
800-999	7.50
1000-end	6.00
32A	5.50
33 Parts:	
1-199	8.50
200-end	7.00
36	7.00
37	5.50
38	9.00
39	6.00
40 Parts:	
0-49	6.50
50-59	12.00
60-80	6.50
81-99	7.00
100-399	8.00
400-end	12.00
41 Chapters:	
1-2	9.00
3-6	7.50
7	4.00
8	4.00
9	7.00
10-17	6.50
18 (Pts. 1-52 SUPP.)	3.00
19-100	6.00
101-end	12.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1-399	8.00
400-end	8.00
43 Parts:	
1-999	5.50
1000-end	9.00
45 Parts:	
1-99	6.50
100-149	7.00
150-199	7.00
200-499	5.00
500-1199	7.00
46 Parts:	
1-29	4.25
30-40	4.50
41-69	6.50
70-89	4.75
90-109	4.75
110-139	4.25
140-155	5.50
156-165	5.50
166-199	5.25
47 Parts:	
0-19	6.50
70-79	7.00
48 [Reserved]	
49 Parts:	
1-99	4.75
100-177	7.00
178-199	7.00
200-399	7.00
400-999	7.00
1000-1199	7.00
1200-1299	9.00
1300-end	6.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency.
EC Engineers Corps
Navy Navy Department

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration

P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council